

CONFERENCE COMMITTEE REPORTS

Conf. Com. Rep. No. 1 on H.B. No. 664

The major purposes of this bill are to:

- (1) Provide the developer of condominium units a choice of a chronological system or a public lottery system as the method for reserving owner-occupied units; and
- (2) Requiring that a person's intent to be an owner-occupant be reaffirmed by affidavit at the time of closing.

Your Committee has amended the bill to address the need for flexibility for those projects which are required by the government to provide units affordable: (1) to persons within certain income ranges; or (2) to persons to whom preferences have been granted to meet certain housing needs. Your Committee was informed that, for example, some privately developed projects may involve agreements between the county and developer to set aside units according to government eligibility requirements or preferences. It is appropriate, in those instances, for the lottery number to be combined with applicable eligibility requirements and preferences to form the final dwelling unit selection number for priority selection of units.

The amended bill creates a process whereby developers of government-sponsored or government-required affordable housing units may contact the Real Estate Commission and elect to waive specific provisions which conflict with their agreement with the government agency. Often developers of government-sponsored or government-required affordable housing projects are required to verify information which takes longer than the timelines provided in the bill provisions, and the waiver provided herein will solve that problem. As amended, the bill allows government-involved projects to have the option to utilize the provisions regarding sales to owner-occupants prior to the issuance of the public report.

In addition, your Committee made non-substantive changes for the purpose of consistency with other provisions of chapter 514A, Hawaii Revised Statutes.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 664, H.D. 2, S.D. 1, C.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 664, H.D. 2, S.D. 1, C.D. 2.

Senators Crozier, Aki and Reed.
Managers on the part of the Senate.

Representatives Hirono, Isbell, Arakaki, Bainum, Chun, Shon and Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 2 on S.B. No. 1440

The purpose of this bill is to propose a constitutional amendment to reserve the oath of loyalty for the governor, the lieutenant governor, members of the legislature, members of the board of education, and all those whose appointment requires the consent of the senate.

Your Committee on Conference amended the bill to include members of the National Guard, State or county employees who possess police powers and district court judges.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1440, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1440, S.D. 1, H.D. 1, C.D. 1.

Senators Blair, McMurdo and Koki.
Managers on the part of the Senate.

Representatives Metcalf, Amaral, Hagino, Hirono and Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 3 on H.B. No. 2322

The purpose of this bill is to propose a constitutional amendment to change the date for constituting a Reapportionment Commission.

After consideration, your Committee on Conference finds that changing the date for constituting the Reapportionment Commission from March 1 to May 1 will assist the Reapportionment Commission in performing its duties. Therefore, your Committee on Conference agrees to restore amendments made to this bill, as passed by the House, by changing the date for constituting the Reapportionment Commission from March 1 to May 1.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2322, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2322, H.D. 1, S.D. 1, C.D. 1.

Senators Blair, Holt and Reed.
Managers on the part of the Senate.

Representatives Metcalf, Amaral, Oshiro, Takamine and Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 4 on H.B. No. 2123

The purpose of this bill is twofold: (1) to assess current aspects of public education and (2) to more clearly define the roles and responsibilities of all entities involved in the governance of public education.

Your Committee would like to emphasize that the education of Hawaii's children is one of this Legislature's greatest priorities. The responsibility for our children's education lies with everyone: parents, teachers, school administrators and management, legislators, and the students.

Under the current system, the Superintendent of Education is elected by the Board of Education and has limited powers as an administrator, while the Board of Education has control over the school system. Your Committee feels that the control of the school system should lie with the Superintendent of Education.

With the implementation of school/community based management and Project Ke Au Hou, your Committee feels that now is the right time for major changes. Change must come at all levels and must include changes at the executive and legislative levels as well.

Your Committee has made the following amendments to the bill:

1. Section 1 of the bill was amended to reflect and give insight into the historical aspects of educational reform and to recognize the Berman Report and the work of the Task Force on Educational Governance;
2. Provision has been made for two questions to be submitted to the electorate at the 1992 primary election with instructions that each voter select one of the two following questions relating to proposals for constitutional amendments:
 - a. The first proposal would allow the Governor to appoint the Superintendent of Education; and
 - b. The second proposal would allow the Governor to appoint the Superintendent and the Board of Education.

Under both proposals, the Board of Education's role would be to establish policy, guidelines, and standards. The Superintendent of Education would control the school system.

The question receiving the most votes cast shall be placed on the ballot at the 1992 general election for ratification by the electorate pursuant to Article XVII, section 3 of the Constitution of the State of Hawaii;

3. The pilot project to support school/community-based management through modified lump-sum budgeting was deleted and language was inserted which would require the Department of Education to develop a modified lump-sum budgeting plan only for direct student/school allocations;
4. The section authorizing the Board of Education to appoint members of each school district advisory council was deleted;
5. The new chapter on public education governance and the review by the Legislative Auditor of laws relating to education and entities involved with education was deleted;
6. Amendments to Act 334, Session Laws of Hawaii 1991, were deleted;
7. The section establishing the council on educational and school assessment was deleted;
8. The section requiring the Board of Education to include school repair and maintenance in its budget was deleted; and
9. Other technical, nonsubstantive amendments for purposes of style and clarity were made.

Your Committee believes that submitting the two questions at the 1992 primary election enhances public participation in the process of determining a vital community decision relating to public education within the constitutional framework.

This bill would be in line with the report by the Task Force on Educational Governance which recommended that the Superintendent of Education be appointed by the Governor. Your Committee agrees with the Task Force and wants to recognize that the Task Force has provided a spark of enthusiasm toward educational reforms.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2123, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2123, H.D. 1, S.D. 1, C.D. 1.

Senators Yamasaki, Blair, Hagino, Holt, Iwase, Kobayashi, B., McCartney, Mizuguchi and George.
Managers on the part of the Senate.

Senator George did not sign the report.

Representatives Taniguchi, Bunda, Kawakami, Metcalf, Souki, Takamine, Tam and Marumoto.
Managers on the part of the House.

Conf. Com. Rep. No. 5 on H.B. No. 1180

The purpose of this bill is to increase the statutory amounts that towing companies are allowed to charge for towing and storing trespass and abandoned vehicles removed primarily from private property.

Your Committee finds that the amounts towing companies are currently permitted to charge for their services are inadequate and unfair. Rates for these services have remained virtually unchanged since 1976 while the costs associated with providing these services have increased considerably. Your Committee believes that it is in the public interest for private companies to continue to provide towing services by removing trespass and abandoned vehicles from private property.

Your Committee has included a provision allowing the towing company to charge an "unhooking" fee of not more than \$40 if the owner of the vehicle appears on the scene to claim the vehicle before the towing company has removed the vehicle.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1180, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1180, H.D. 2, S.D. 1, C.D. 1.

Senators Fernandes Salling, Cobb and George.
Managers on the part of the Senate.

Representatives Baker, Metcalf, Amaral, Ihara Jr., Yonamine and Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 6 on H.B. No. 2500

The purpose of this bill is to amend the definition of "thrill craft" by:

- (1) Deleting the definition limiting provision that "thrill craft" have the carrying capacity of not more than the operator and one other person; and
- (2) Including the term "thrill craft" within the category of "personal watercraft" as provided for by the Personal Watercraft Industry Association.

Your Committee finds that the present statute's limiting definition of this type of watercraft will eventually render the law ineffective as technological changes in the industry produce new types of vessels. The law must be clear and unambiguous with respect to definitions.

Additionally, there is no assurance that the Personal Watercraft Industry Association's meaning of "thrill craft" would always be applicable to the State's needs. Considering the foregoing, your Committee has amended this bill by deleting the references to the Personal Watercraft Industry Association's definition of "personal watercraft," and provided language which outlines the type of motive propulsion for "thrillcraft," and which does not limit the passenger carrying capacity of the vehicle.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2500, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2500, S.D. 1, C.D. 1.

Senators Nakasato, Kobayashi, A., and Koki.
Managers on the part of the Senate.

Representatives Stegmaier, Baker, Metcalf, Morihara and Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 7 on H.B. No. 1715

The purpose of this bill is to direct the Legislative Reference Bureau (LRB) to conduct a comprehensive feasibility study of establishing a separate institution of higher education in Hilo that incorporates the University of Hawaii-Hilo (UH-Hilo) and is independent of the University of Hawaii (UH) at Manoa.

Your Committee recognizes the concerns raised by a portion of the Big Island community regarding the current condition, status, and overall quality of education of the UH-Hilo campus. While these community concerns do not appear to be representative of the island-wide population, it is your Committee's belief that any efforts to address these concerns will be an added benefit for higher education on the Big Island and throughout the State.

In order to derive the most effective solution to enrich the quality of education at UH-Hilo, your Committee believes that it is both imperative and prudent to take a comprehensive and balanced look at the extensive range of proposals that have been suggested by the public at-large. However, there are two proposals in particular that merit greater scrutiny. These two proposals represent two vastly different approaches in addressing the future of UH-Hilo.

One proposal is to retain UH-Hilo as part of the UH system. This proposal suggests that increased effort be made to improve the status, condition, and quality of education of UH-Hilo within the existing UH system. The other proposal is to establish a separate board of regents and president for a new institution of higher education that incorporates UH-Hilo.

In this regard, your Committee has amended the bill by:

- (1) Requiring the LRB to conduct a comprehensive study that evaluates and examines the two aforementioned proposals;
- (2) Directing the LRB to conduct a study that evaluates and examines the effects of retaining UH-Hilo as part of the UH system and exploring alternatives to improve the current status and condition of the existing UH-Hilo. The study shall include, but not be limited to:
 - (a) The problems and concerns currently faced by UH-Hilo that impede or hinder efforts to improve the educational quality of its institution under the existing UH system;
 - (b) The advantages and disadvantages of UH-Hilo remaining as part of the UH system;
 - (c) The perceived obstacles and drawbacks of UH-Hilo existing under the current Board of Regents of the UH system;
 - (d) A progress report of the obstacles faced to facilitate and achieve articulation among UH-Hilo, UH-Manoa, and the other institutions of the UH system;
 - (e) Actions and opportunities to improve communications, coordination, and the relationship between UH-Hilo and the existing UH system;
 - (f) Strategies to improve the quality of education, status, and condition of UH-Hilo within the existing UH system;
 - (g) A comparison of the funds allocated to UH-Hilo versus other campuses of the UH system;
 - (h) A review of issues related to whether structural changes within the existing UH system could achieve similar results as compared to creating a separate university; and
 - (i) Other matters deemed relevant;
- (3) Specifying that the study that evaluates and examines the feasibility and effects of establishing an independent UH-Hilo also include:
 - (a) A cost and impact analysis, and economic assessment of establishing a separate UH-Hilo;
 - (b) The advantages and disadvantages of an autonomous UH-Hilo from the UH system;
 - (c) A description of coordination and cooperation, if any, between an independent UH-Hilo and the UH system, to continue existing programs, resources, and activities between the two entities;
 - (d) The impact on existing programs, resources, and functions under a separate UH-Hilo;
 - (e) The effects on student enrollment, student admission, academic standards, and school administration and operation, under a separate UH-Hilo;
 - (f) An assessment of the progress and effects on student achievement and learning of other states with dual university systems;
 - (g) Student, faculty, and the overall campus-community response to the establishment of a separate UH-Hilo campus that is independent from the UH system; and
 - (h) An assessment of the impact a separate UH-Hilo campus would have on the Hawaii Community College and UH-West Hawaii;
- (4) Deleting the phrase "Whether structural changes within the UH system could achieve similar results as creating a totally separate university" from the description of the study that pertains to the establishment of UH-Hilo as an independent institution, and including the language under the study that pertains to retaining UH-Hilo as part of the UH system;
- (5) Making changes to the purpose section of the bill to reflect the changes of substantive material as compared to the S.D. 2 version of H.B. No. 1715; and
- (6) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

Your Committee recognizes that there are areas of overlap in the specific elements of the studies. For example, the disadvantages of UH-Hilo remaining as part of the UH system will be reflected as advantages of an autonomous UH-Hilo. The duplication is intentional to emphasize that a balanced, comprehensive study of changes that would improve UH-Hilo is desired.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1715, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1715, H.D. 1, S.D. 2, C.D. 1.

Senators Yamasaki, Kobayashi, B., McCartney, Solomon and Koki.

Managers on the part of the Senate.

Representatives Ige, D., Souki, Chang, Fukunaga, Horita, Okamura, Tajiri and O'Kieffe.
Managers on the part of the House.

Conf. Com. Rep. No. 8 on H.B. No. 1346

The purpose of this bill is to require the Housing Finance and Development Corporation ("HFDC") to offer at least ten percent of the houselots in HFDC-sponsored single family developments consisting of fifty units or more to owners who agree to participate with nonprofit organizations which assist the owners in the construction of affordable units on the lots.

Your Committee has agreed to adopt the original version of H.B. 1346, with an amendment that the existing requirement contained in Section 201E-211, Hawaii Revised Statutes, requiring HFDC to offer at least ten percent of the units in HFDC-sponsored single family projects to owner-builders or nonprofit organizations assisting owner-builders in the construction of units, shall apply only single family projects consisting of 50 units or more.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1346, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1346, H.D. 1, S.D. 1, C.D. 1.

Senators Crozier, Aki and Reed.
Managers on the part of the Senate.

Representatives Isbell, Amaral, Bainum, Chun and Tatibouet.
Managers on the part of the House.

Conf. Com. Rep. No. 9 on H.B. No. 1023

The purpose of this bill is to remove the repeal date of Act 342, Session Laws of Hawaii, 1986, to permanently raise the minimum drinking age to twenty-one.

Your Committee made technical, non-substantive amendments for the purpose of clarity.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1023, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1023, H.D. 1, S.D. 1, C.D. 1.

Senators Fernandes Salling, Aki and George.
Managers on the part of the Senate.

Representatives Oshiro, Metcalf, Baker, Cachola, Hashimoto and Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 10 on H.B. No. 2455

The purpose of this bill is to require that all motor vehicle certificates of inspection contain motor vehicle insurance information.

Your Committee finds that including motor vehicle insurance information on the certificate of inspection will document that the Safety Inspection Station has checked for motor vehicle insurance.

In addition, your Committee finds that currently, motorists who have their motor vehicle safety inspection stickers stolen or destroyed more than three months after the original date of inspection must obtain another safety inspection at their own expense.

Your Committee has amended this bill to require inspection stations to replace lost, stolen, or destroyed safety inspection stickers upon presentation of the motor vehicle's current certificate of inspection. Your Committee has further amended this bill by authorizing the Director of Transportation to adopt rules to determine a fee for the replacement of inspection stickers which have been lost, stolen, or destroyed.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2455, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2455, H.D. 2, S.D. 1, C.D. 1.

Senators Fernandes Salling, Cobb and George.
Managers on the part of the Senate.

Representatives Oshiro, Metcalf, Amaral, Baker, Hashimoto and Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 11 on H.B. No. 3046

The purpose of this bill is to provide:

- (1) A five percent tolerance for portable axle scales;

- (2) A two percent tolerance for permanently installed axle load scales; and
- (3) A mandatory fine for violation of Section 291-37(a), Hawaii Revised Statutes.

Your Committee finds that a stricter application of vehicle weight limitations and penalties for violations may help to further reduce the damaging effects to Hawaii's roads and highways caused by overweight vehicles.

Your Committee has amended this bill by making it effective upon publication in a newspaper of general circulation published within the State, a notice of completion for Project BR-064-1(3) Sand Island Bascule Bridge Rehabilitation Phase II and Project 64A-01-92 Traffic Signal At Sand Island Bridge.

Your Committee has also amended this section to provide that this act shall be repealed should such notice of completion not be published by April 1, 1993.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3046, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3046, H.D. 2, S.D. 1, C.D. 1.

Senators Fernandes Salling, Cobb and George.
Managers on the part of the Senate.

Representatives Oshiro, Metcalf, Amaral, Baker, Yonamine and Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 12 on H.B. No. 3963

The purpose of this bill is to amend the six-month inspection period for rental or U-drive motor vehicles to exempt automobiles that have been registered by the rental motor vehicle company for a period of one year or less.

Your Committee finds that the industry and the City and County of Honolulu are confident that exempting new rental motor vehicles from the first six-month inspection will perpetrate no harm on the general public. Your Committee agrees that rental and U-drive companies are generally conscientious about the upkeep of their vehicles, and finds that the first six-month inspection for new vehicles is not necessary to protect the public safety.

Your Committee has amended this bill to exempt rental or U-drive motor vehicles under one year of age from the six-month inspection period.

It is the intent of your Committee that upon initial registration of a new motor vehicle categorized as a rental or U-drive motor vehicle, a one-year certificate of inspection shall be issued. For every subsequent renewal, a six-month certificate of inspection shall be issued pursuant to Section 286-26(a), Hawaii Revised Statutes.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3963, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3963, H.D. 1, S.D. 1, C.D. 1.

Senators Fernandes Salling, Cobb and George.
Managers on the part of the Senate.

Representatives Oshiro, Hirono, Baker, Horita, Morihara and Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 13 on H.B. No. 2409

Your Committee has amended the bill by making it reflect the original House version of the bill. This will allow the use of macrons and glottal stops when Hawaiian words or terms are used by or for state and county agencies or officials.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2409, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2409, S.D. 1, C.D. 1.

Senators Crozier, Aki and Reed.
Managers on the part of the Senate.

Senator Reed did not sign the report.

Representatives Ige, D., Metcalf, Amaral, Horita, Taniguchi and Tatibouet.
Managers on the part of the House.

Conf. Com. Rep. No. 14 on H.B. No. 3533

The purpose of this bill is to provide for contractors whose work has been substandard to be disqualified from receiving further state contracts for two years.

Your Committee has amended the bill to:

- (1) Authorize the director of any department or the chairperson of any board or commission which lets State contracts to ban a contractor if the director or chairperson, determines that the contractor has performed substandard work;

- (2) Disqualify such contractors in advance as responsible bidders for state contracts; and
- (3) Make other non-substantive changes for the purposes of style and clarity including clarifying that determination would not be made without normal hearing process by the director or chairperson.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3533, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3533, H.D. 1, S.D. 1, C.D. 1.

Senators Mizuguchi, Yamasaki and Koki.
Managers on the part of the Senate.

Representatives Bellinger, Metcalf, Amaral, Kanoho, Oshiro and Anderson.
Managers on the part of the House.

Conf. Com. Rep. No. 15 on H.B. No. 2818

The purpose of this bill is to:

- (1) Delete the requirement that foreign nursing school graduates take the Commission on Graduates of Foreign Nursing Schools (CGSFNS) exam prior to sitting for the National Council for Licensure Exam for Registered Nurses (NCLEX-RN);
- (2) Change the renewal process by stipulating that licenses expire on June 30 of each odd-numbered year and requiring an applicant for renewal to apprise the board of any disciplinary action taken against the applicant during the preceding biennium;
- (2) Require that a registered nurse or licensed practical nurse serving on the board of Nursing (Board) maintain a valid license in good standing;
- (3) Provide that graduates of Board-approved foreign nursing schools who are considered qualified by the Board and who have had their transcripts evaluated by professional evaluators designated by the Board are eligible to apply for a nursing license;
- (4) Exempt graduates of Board-approved foreign nursing schools from taking an English proficiency examination;
- (5) Provide that all credentials submitted by an applicant will be retained by the Board and will suffice as proof of graduation; and
- (6) Make various housekeeping revisions to Chapter 457, Hawaii Revised Statutes (HRS), for the purposes of clarity and style.

Your Committee finds that the State is experiencing a serious shortage of registered nurses in Hawaii's hospitals and nursing homes. According to recent statistics, over seven hundred fifty (seventeen percent) of the registered nursing positions at Hawaii's hospitals and residential care home facilities are vacant. Hospitals have had to cope with this shortage by closing bed space, working employees overtime, and recruiting nurses from the mainland or from other nations at a cost exceeding six million per year.

While the Legislature has attempted to address the nursing shortage by supporting an assortment of programs geared toward expanding the number of locally trained nurses in the State, there is a desperate need to satisfy the immediate demand for registered nurses at in-patient facilities. In light of this, your Committee believes that the provisions of this bill would immediately expand the supply of competent registered nurses in Hawaii by easing the licensing requirements for prospective nurses who have successfully graduated from a registered foreign nursing program.

Your Committee has amended the bill by including language from S.B. No. 2773, H.D. 2, S.D. 1, (1992) which amends Section 457-9(b), Hawaii Revised Statutes. This language, which as included in the afore-referenced Senate bill, was approved on third reading by both houses, essentially does the following:

- (1) Clarifies that a nurse who:
 - (A) Fails to renew a license as provided in Section 457-9(a), HRS; and
 - (B) Does not engage in nursing in the State for one year after the license has been forfeited,
 shall not be required to pay the applicable renewal or penalty fee, provided that the nurse remains inactive for that year;
- (2) Requires a nurse wishing to resume nursing after failing to renew a license to notify the board and remit not only the renewal fee but the application form as provided in Section 457-9(a), HRS; and
- (3) Makes technical, nonsubstantive amendments for the purposes of clarity and style.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2818, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2818, H.D. 2, S.D. 1, C.D. 1.

Senators Ikeda, Iwase, Matsuura and Koki.
Managers on the part of the Senate.

Representatives Shon, Hirono, Metcalf, Amaral, Chun and Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 16 on H.B. No. 3034

The purpose of this bill is to clarify that the buyer in a consumer credit sale transaction may assert any defense that the buyer has against the seller and against the seller's assignee as well.

Your Committee has amended the bill by adding a new subsection which more clearly reflects the intent that the buyer may only assert defenses, and not affirmative actions, against the seller's assignee and that this situation arises only when the assignee requests payment from the buyer.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3034, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3034, H.D. 1, S.D. 1, C.D. 1.

Senators Ikeda, Chang, Iwase and Koki.
Managers on the part of the Senate.

Representatives Hirono, Bainum, Cachola, Morihara and Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 17 on H.B. No. 3028

The purpose of this bill is to:

- (1) Clarify standards for the submittal of documents and establish additional disclosures a subdivision developer must provide to the Department of Commerce and Consumer Affairs;
- (2) Repeal an exemption on the registration of subdivisions comprised of one-hundred or fewer units; and
- (3) Make various "housekeeping" revisions to the Uniform Land Sales Practices Act, Chapter 484, Hawaii Revised Statutes, for the purposes of clarity and style.

After much discussion and careful deliberation, your Committee agrees that the provisions of this bill, as received, would greatly clarify Hawaii's laws pertaining to the registration and sale of subdivided lands.

However, while your Committee is in accord with the intent of this bill, your Committee has been informed by the Professional and Vocational Licensing Division of the Department of Commerce and Consumer Affairs (DCCA) that certain technical, nonsubstantive amendments must be made in order to conform this bill with federal laws.

Your Committee has learned that the Hawaii Supreme Court has never had to issue interpretations of the terms "common promotion plan" and "material change". Because of this, by conforming these definitions with federal laws, DCCA administrators would be able to rely on federal court interpretations of the definitions should any conflicts arise, as well as make uniform with other states the laws relating to land sales practices.

Accordingly, your Committee has amended this bill by:

- (1) Conforming the definitions of "common promotional plan" and "material change" with federal laws; and
- (2) Making numerous technical, nonsubstantive revisions for the purposes of clarity, consistency, and style.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3028, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3028, S.D. 1, C.D. 1.

Senators Ikeda, Chang, Iwase and Koki.
Managers on the part of the Senate.

Representatives Hirono, Souki, Morihara, Tajiri and Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 18 on H.B. No. 2811

The purpose of this bill is to increase the dollar amount of claims under the jurisdiction of small claims court.

Specifically, this bill:

- (1) Raises the limit, in cases for the recovery of money only, from \$2,500 to \$5,000; and
- (2) Raises the value of the property at issue and amount claimed in cases for the return of leased or rented personal property, from \$1,500 to \$5,000, and from \$2,500 to \$5,000, respectively.

Your Committee on Conference has amended this bill by changing the amount from \$5,000 to \$3,500 regarding the maximum amount to be claimed in small claims court for the recovery of money and the return of leased or rented personal property.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2811, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2811, H.D. 1, S.D. 1, C.D. 1.

Senators Blair, Cobb and Koki.
Managers on the part of the Senate.

Representatives Metcalf, Amaral, Arakaki, Morihara and Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 19 on H.B. No. 3006

The purpose of this bill is to facilitate the termination of child support payments when an adult child is no longer in school. Such payments shall be discontinued if the custodial parent, or adult child, does not present proof that the child is presently enrolled as a full time student, or has been accepted and plans to attend as a full time student for the next semester, prior to the child's nineteenth birthday.

Current statutes do not clearly specify that child support payments terminate when the child becomes eighteen years old unless the child is enrolled in an acceptable form of secondary education. This bill puts the responsibility for such notification on the custodial parent or child, and specifies acceptable forms of secondary education. The bill also clarifies that reimbursement for overpayment of child support from the child support enforcement agency may only be sought to the extent this overpayment was disbursed to the Department of Human Services.

Technical non-substantive amendments were made to conform to present statutes and for purposes of clarity, style, consistency, and to conform to the Ramseyer convention.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3006, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3006, H.D. 1, S.D. 1, C.D. 1.

Senators Blair, Ikeda and Koki.
Managers on the part of the Senate.

Representatives Metcalf, Amaral, Arakaki, Bainum and Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 20 on H.B. No. 3508

The purpose of this bill is to eliminate the harsh effects of the common law rule against perpetuities while maintaining the prohibition against perpetual nonvested future interests. This bill supersedes the common law rule by installing a workable "wait and see" element and other amendments.

Earlier, the Senate version of this bill removed the section that established exclusions from the statutory rule against perpetuities. This section, however, is in part declaratory of existing common law and should preserve all the exclusions recognized at common law and by state statute. Moreover, the restoration of this section should enable the bill to more closely resemble the Uniform Statutory Rule Against Perpetuities as promulgated by the National Conference of Commissioners on Uniform State Laws in 1986 and amended in 1990.

Your Committee on Conference, therefore, has amended this bill by restoring an amended list of exclusions from the statutory rule against perpetuities as found suitable by all members of your Committee on Conference.

Technical, nonsubstantive revisions were also made for purposes of style and clarity.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3508, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3508, S.D. 1, C.D. 1.

Senators Blair, Crozier and Koki.
Managers on the part of the Senate.

Representatives Metcalf, Amaral, Oshiro, Takamine and Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 21 on H.B. No. 2131

The purpose of this bill is to amend Chapters 378 and 386 of the Hawaii Revised Statutes to enable employees to file civil actions premised on sexual harassment or sexual assault arising out of and in the course of employment.

Section 386-5, Hawaii Revised Statutes, now provides that the rights and remedies granted thereunder to an employee "shall exclude all other liability of the employer to the employee." The provision has been interpreted as barring a civil action premised on sexual harassment or sexual assault in an employment context. This bill would permit the filing of such an action as an exception to the foregoing "exclusive remedy" provision.

Under this bill an employee who has been subjected to sexual harassment or sexual assault and injured thereby would be entitled to workers' compensation benefits and may still be able to recover damages for the harassment or assault and the related infliction of emotional distress or invasion of privacy. Your Committee finds that someone who has been subjected to sexual harassment or sexual assault may not be adequately compensated if recovery for the injury were limited to the schedule of benefits delineated in the Workers' Compensation Law.

Upon further consideration, your Committee has made the following amendments to the bill:

- (1) Language in Section 2 of the bill granting the Hawaii Civil Rights Commission primary jurisdiction over a sexual harassment or sexual assault complaint for the first one hundred eighty days after the alleged injury has been deleted and replaced by language allowing the Commission to issue a right to sue letter on a complaint which recites the same facts as those alleged in a civil action. This would eliminate the possibility of two ongoing proceedings related to the same fact situation.
- (2) A new section amending Section 386-8.5, Hawaii Revised Statutes, has been added which would prevent labor organizations from being joined as defendants in civil actions for failing to negotiate or enforce provisions relating to sexual harassment or sexual assault in collective bargaining agreements. Section 386-8.5 now provides that labor organizations are not subject to liability for failing to negotiate or enforce safety and health provisions. This protection from liability logically should be extended to cover liability for failing to negotiate or enforce a sexual harassment or sexual assault provision.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2131, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2131, S.D. 1, C.D. 1.

Senators Mizuguchi, Kobayashi, A., Yamasaki and Reed.
Managers on the part of the Senate.

Senator Reed did not sign the report.

Representatives Takamine, Metcalf, Amaral, Hirono, Yonamine and Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 22 on H.B. No. 3466

The purpose of this bill is to:

- (1) Make it unlawful for an employer to discriminate against an employee or prospective employee because the person engages in a legal activity off the employer's premises during nonworking hours; and
- (2) Amend the definition of "handicapped status" under discriminatory practices to include human immunodeficiency virus (HIV) seropositivity.

This legislation is not intended to effect the broad discretion of religious organizations as it applies to discrimination practices regarding hiring and termination of employees.

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

- (1) Specifying that the measure shall not be construed to protect any legal activity that while not incompatible with the requirements of the position, is incompatible with the collective bargaining agreement;
- (2) Modifying the effective date provision to allow section 1 of this Act to take effect on January 1, 1993 and section 2 of this Act to take effect upon approval, thereby allowing the Civil Rights Commission additional time to establish an enforcement mechanism and promulgate rules and regulations; and
- (3) Making other technical, nonsubstantive amendments for the purpose of style and clarity.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3466, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3466, H.D. 2, S.D. 1, C.D. 1.

Senators Mizuguchi, Kobayashi, A., and Blair.
Managers on the part of the Senate.

Representatives Takamine, Hirono, Metcalf, Yonamine and Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 23 on H.B. No. 3157

The purpose of bill is to:

- (1) Disallow a deduction from gross income on an individual's income tax return for an amount paid into an Individual Housing Account (IHA) which is distributed within three hundred sixty-five days from the date on which the contribution was made to the IHA;
- (2) Clarify current statutory provisions that allow a husband and wife to deduct \$10,000 on a joint income tax return if \$5,000 was deposited by each spouse in a taxable year; and

- (3) Clarify that the ten percent penalty applies to a person who sells the residential property during the ten-year period subsequent to the purchase.

Your Committee finds that the intent of the IHA law is to allow taxpayers to build up savings toward the purchase of their first residence. Taxpayers have abused the IHA by making short term contributions strictly for the benefit of the deduction. Amendments to the law will help restore the Legislature's intent to encourage savings.

Your Committee has agreed to adopt the original version of H.B. 3157, with amendment to the following:

- (1) Inserting "A deduction not to exceed \$10,000 shall be allowed for a married couple filing a joint return" and "or \$10,000 for a joint return," to provide technical clarity for those married couples filing joint returns; and
- (2) Making technical, nonsubstantive amendments for purposes of style and clarity.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3157, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3157, H.D. 2, S.D. 2, C.D. 1.

Senators Yamasaki, Aki, Crozier, Kobayashi, B., and George.
Managers on the part of the Senate.

Representatives Isbell, Souki, Arakaki, Bainum, Duldulao, Ige, M., Kawakami and Tatibouet.
Managers on the part of the House.

Conf. Com. Rep. No. 24 on H.B. No. 2504

The purpose of this bill is to authorize the establishment of a mutual housing association that will assist Hawaii residents in the purchase, development, building, or rehabilitation of land and residential structures.

Your Committee upon further consideration has made the following amendments to H.B. No. 2504, H.D. 2, S.D. 2:

- (1) Omitted "Chapter 201E, Hawaii Revised Statutes, is amended to read as follows" and replaced it with "The Hawaii Revised Statutes, is amended by adding a new chapter to be appropriately designated and to read as follows" in Section 1;
- (2) Incorporated the provisions in Section 1 subsection (b) relating to the definition of mutual housing association into subsection (a);
- (3) Added a new provision in Section 1 subsection (b) to provide the elected Board of Directors of the mutual housing association governing powers set forth in its Bylaws and Articles of Incorporation;
- (4) Omitted "The election of board of directors shall require a majority of the association;" and replaced it with "The board of directors shall be elected by members of the association;" to provide the association with the responsibility of electing their board of directors;
- (5) Deleted all references to the adoption of rules to Chapter 91, Hawaii Revised Statutes, by the Housing Finance and Development Corporation;
- (6) Deleted all references to the use of Section 201E-217, Hawaii Revised Statutes, as funds to cover operations, planning, development, and initial costs by the mutual housing association;
- (7) Inserted that this Act shall expire on December 31, 1997; and
- (8) Made technical, nonsubstantive amendments for the purposes of clarity and style.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2504, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2504, H.D. 2, S.D. 2, C.D. 1.

Senators Yamasaki, Aki, Crozier, Kobayashi, B., and Koki.
Managers on the part of the Senate.

Senator Aki did not sign the report.

Representatives Isbell, Souki, Bainum, Chang, Chun, Kanoho and Tatibouet.
Managers on the part of the House.

Conf. Com. Rep. No. 25 on H.B. No. 3558

The purpose of this bill is to require that the Housing Finance and Development Corporation (HFDC) shall submit an annual report to the Legislature on all programs and funds established under the HFDC.

Your Committee has agreed to adopt the Senate version of H.B. 3558, amended to clarify that HFDC must report to the Legislature on all its program areas and all its funds and that the report will be organized by program area and by fund within each program area.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3558, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3558, H.D. 1, S.D. 1, C.D. 1.

Senators Yamasaki, Aki, Crozier, Kobayashi, B., and George.
Managers on the part of the Senate.

Representatives Isbell, Souki, Alcon, Amaral, Bainum, Kawakami and Marumoto.
Managers on the part of the House.

Conf. Com. Rep. No. 26 on H.B. No. 2505

The purpose of this bill is to streamline the state and county land use development approval process for constructing housing.

Your Committee has made the following amendments to H.B. No. 2505, H.D. 2, S.D. 2:

- (1) Deleting Section 2 in its entirety to limit repetitiveness in Section 1;
- (2) Renumbering consecutively the remaining sections; and
- (3) Making a technical, nonsubstantive amendment for the purpose of style and clarity.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2505, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2505, H.D. 2, S.D. 2, C.D. 1.

Senators Yamasaki, Aki, Crozier, Kobayashi, B., and Koki.
Managers on the part of the Senate.

Representatives Isbell, Ihara Jr., Metcalf, Amaral, Bainum, Hashimoto and Tatibouet.
Managers on the part of the House.

Conf. Com. Rep. No. 27 on H.B. No. 3563

The purpose of this bill is to authorize the Hawaii Housing Authority (HHA) to certify vehicles abandoned on property owned, managed, or operated by the HHA to facilitate removal and disposal of these vehicles.

Your Committee has agreed to adopt H.B. No. 3563, H.D. 2, S.D. 1, which requires that a notice be conspicuously posted on the vehicle prior to its removal, with technical, nonsubstantive amendments made for the purposes of clarity and style.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3563, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3563, H.D. 2, S.D. 1, C.D. 1.

Senators Fernandes Salling, Cobb and George.
Managers on the part of the Senate.

Representatives Isbell, Baker, Metcalf, Amaral, Chun, Ige, M., and Tatibouet.
Managers on the part of the House.

Representative Ige, M., did not sign the report.

Conf. Com. Rep. No. 28 on H.B. No. 3673

The purpose of this bill is to add cruise ships to the list of facilities that are required to provide a nonsmoking area in the dining area.

Your Committee finds that this bill would reduce the health hazards to non-smoking passengers dining aboard cruise ships.

Your Committee changed the bill by removing the provision amending the definition of restaurants in Section 328K-1, Hawaii Revised Statutes.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3673, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3673, S.D. 1, C.D. 1.

Senators McMurdo, Kobayashi, B., Levin and Koki.
Managers on the part of the Senate.

Representatives Cachola, Shon, Metcalf, Bainum, Lee and Marumoto.
Managers on the part of the House.

Conf. Com. Rep. No. 29 on H.B. No. 1237

The purpose of this bill is to expand the degree of protection afforded to individuals, businesses, and governmental agencies from tampering, interference, damage, and unauthorized access to lawfully created computer data and computer systems.

Your Committee on Conference finds that the growth in computer use has resulted in a similar growth in unauthorized access to computers, computer systems, software and data. Consequently, it is imperative that individuals, groups, organizations, financial institutions, businesses, and government agencies be protected from persons who tamper, interfere, damage, and gain unauthorized access to their computers, computer systems, software, and data. It is entirely appropriate, therefore, that this bill creates two new offenses called "computer fraud" and "unauthorized computer use", both of which are class C felonies.

Your Committee on Conference recognizes, however, that there are other people who gain unauthorized access to computer systems and do no damage to those systems. These people, whether they be harmless pranksters, students, or curious computer hackers, do not deserve to be charged with a class C felony. Yet a serious breach of privacy has occurred and this cannot be dismissed. Consequently, this bill is amended by creating an affirmative defense entitled "entry without disruption." The court may dismiss a prosecution if, having regard to the nature of the conduct alleged and nature of the attendant circumstances, it finds that the defendant's conduct did not actually cause harm or damage to any computer, computer system, computer network, or any of its parts. It shall be required of the court, however, that it not dismiss a prosecution brought under this Part without filing a written statement of its reasons.

Your Committee has made technical, nonsubstantive amendments for the purpose of style and consistency.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1237, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1237, H.D. 1, S.D. 2, C.D. 1.

Senators Blair, Crozier and Reed.
Managers on the part of the Senate.

Representatives Metcalf, Amaral, Hiraki, Morihara and Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 30 on H.B. No. 2808

This bill implements the recommendations of the State Auditor and those recommendations set forth in Report No. 91-19 entitled "Sunset Evaluation Report: Auctions, Pawnbrokers, Secondhand Dealers and Scrap Dealers". Historically, counties had the authority to decide whether or not to license these businesses. In 1990, this power was removed from the counties. This bill would restore that power to each county.

The State Auditor (Auditor) testified that the matter of licensing should be left to the counties. The Auditor also testified that businesses under the sunset schedule appear to be required to pay the Department of Commerce and Consumer Affairs (DCCA) a compliance resolution fee. This fee is required of state licensees under the DCCA, but was probably not intended to cover a small group of county licensees. Accordingly, the Auditor recommends removing these businesses from the sunset schedule. In addition, the regulation of pawnbrokers is being removed to avoid conflict with proposed state regulation.

Your Committee on Conference has accordingly agreed to return to H.B. No. 2808, H.D. 2, with certain amendments deleting pawnbrokers as discussed above, which implements the foregoing recommendations of the Auditor.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2808, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2808, H.D. 2, S.D. 1, C.D. 1.

Senators Yamasaki, Cobb, Ikeda, Iwase and Koki.
Managers on the part of the Senate.

Representatives Ihara Jr., Hirono, Amaral, Horita, Metcalf, Morihara and Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 31 on H.B. No. 2724

The purposes of this bill are to:

- (1) Provide additional conditions and administrative mechanisms to the public reporting requirement exemption for two-apartment condominium projects; and
- (2) Authorize the Real Estate Commission to commence investigations, issue cease and desist orders, and initiate civil and criminal actions for violations of the laws pertaining to the payment and collection of fees to the Condominium Management Education Fund and the regulation of condominium property regimes.

After much discussion and careful deliberation, your Committee agrees that the provisions of this bill, as received, would greatly clarify Hawaii's laws pertaining to the public reporting requirements of real estate condominium project developers, as well as enhance the ability of the Real Estate Commission to effectively enforce the provisions of Chapter 514A, Hawaii Revised Statutes (Condominium Property Regimes).

However, while your Committee is in accord with the intent of this bill, as received, your Committee notes that the language pertaining to the elimination of the final report's expiration date would inevitably preclude developers who have been granted an extension on the report's effective date from receiving this exemption.

In addition, it has come to your Committee's attention that this provision, as worded, would also exclude a developer or beneficiary of a developer's irrevocable trust from receiving this exemption if the developer or beneficiary has submitted satisfactory evidence of retainment or conveyance for one apartment and has sold the apartment.

Your Committee believes that the aforementioned situations conflict with the intent of this bill and thus assert that clarification is needed to rectify these problems. Accordingly, your Committee has amended this bill by:

- (1) Specifying that the Real Estate Commission may eliminate the expiration date of the final public report for two-apartment condominium projects, provided, inter alia, that developers submit the following to the Real Estate Commission:
 - (A) A written request not later than thirty days prior to the next expiration date of the final public report; and
 - (B) Satisfactory evidence that one or both apartments are either retained by the developer or conveyed to an irrevocable trust to benefit a spouse or family member of the developer;

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

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2724, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2724, H.D. 1, S.D. 1, C.D. 1.

Senators Crozier, Aki and Reed.
Managers on the part of the Senate.

Senator Aki did not sign the report.

Representatives Hirono, Amaral, Hiraki, Morihara and Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 32 on H.B. No. 2391

The purpose of this bill is to strengthen the State's environmental impact statement system by amending Chapter 343, Hawaii Revised Statutes, to require a detailed justification of a chosen alternative that is not the least environmentally destructive alternative.

Your Committee finds that strengthening Chapters 341 and 343 is essential if Hawaii's environmental impact statement system is to become a truly effective tool for providing public participation and information in the land use planning process. Ultimately, the purpose of these statutes should be to ensure appropriate and well-managed development in the State.

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

- (1) Amending section 343-2 to add two new definitions of "cumulative impact" and "preparation notice;"
- (2) Amending the definition of "environmental impact statement" or "statement" to require consideration of cumulative impacts caused by an action;
- (3) Amending section 341-4 to require the director of environmental quality control to participate in the review of environmental impact statements to, among other things, flag issues to be reviewed by the agencies and monitor the participation of the agencies in the review process;
- (4) Amending section 343-5 to include the special management area and critical habitats as triggers which require the preparation of an environmental assessment;
- (5) Amending subsections (b) and (c) of 343-5 by providing for appeal of a determination through dispute resolution, provided that use or failure to use this procedure will not preclude access to court pursuant to section 343-7;
- (6) Deleting proposed amendments to subsections (b) and (c) of 343-5 that would require that a statement proposing to use an alternative other than the least environmentally destructive alternative only be accepted if it discusses in equal detail the reasons for not selecting the least environmentally destructive alternative;
- (7) Amending section 343-6 to develop procedures for dispute resolution, to publish and update a guidebook for use by environmental impact statement preparers and reviewers, and to increase public participation in the environmental impact statement process; and
- (8) Making technical, nonsubstantive amendments for purposes of clarity, style and consistency, and conformity to the Ramseyer convention.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2391, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2391, H.D. 1, S.D. 1, C.D. 1.

Senators Chang, Levin and Reed.
Managers on the part of the Senate.

Representatives Hiraki, Morihara, Santiago, Young and Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 33 on H.B. No. 3946

The purpose of this bill is to provide for a twenty day public review and comment period for draft environmental assessments for which a negative declaration is anticipated.

Your Committee finds that the public review and comment period is essential to upholding the integrity of the overall environmental impact statement process. As such, it is appropriate to allow for a longer review and comment period for draft environmental assessments.

Your Committee has amended this bill by allowing for a thirty day review and comment period for draft environmental assessments. Your Committee has also made technical, nonsubstantive amendments for the purpose of accuracy and to conform to the Ramseyering convention.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3946, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3946, H.D. 2, S.D. 1, C.D. 1.

Senators Chang, Levin and Reed.
Managers on the part of the Senate.

Representatives Hiraki, Metcalf, Amaral, Hagino, Santiago, Young and Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 34 on H.B. No. 3843

The purposes of this Act are to prohibit the purchase, distribution, manufacture, importation or sale of any portable fire extinguisher that contains a halon or other ozone-depleting compound; and to require the use of an approved reclamation system in the repair or maintenance of any portable fire extinguishing system.

Your Committee on Conference finds that this measure would strengthen efforts to prevent the depletion of the Earth's stratospheric ozone layer and shield the Earth's surface from dangerous ultraviolet radiation.

The Senate amended the House measure by extending its provisions to Sections of Chapter 437 and 444, Hawaii Revised Statutes.

Your Committee on Conference has amended this bill by:

- (1) Adding a definition for "hydrochlorofluorocarbon";
- (2) Removing the requirement for a certificate from a state agency as evidence of training in the proper use of refrigerant recovery and recycling equipment, and the servicing of motor vehicle and mobile air conditioners;
- (3) Adding the requirement that service people must successfully complete an appropriate training course certified by Underwriter Laboratories, Incorporated;
- (4) Extending the provisions of the bill to include the motor vehicle and the contracting industries;
- (5) Providing an exemption from the provisions of this Act for purchasing agents of airline companies, and to private individuals upon presentation of a pilots license;
- (6) Deleting the necessity for approval of reclamation systems by the Director of Health; and
- (7) Making technical, nonsubstantive changes for purposes of clarity and style.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3843, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3843, H.D. 2, S.D. 1, C.D. 1.

Senators Chang, Levin and Reed.
Managers on the part of the Senate.

Representatives Hiraki, Metcalf, Amaral, Morihara, Santiago, Young and Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 35 on H.B. No. 2336

The purpose of this Act is to encourage the development and application of environmentally-sound conservation practices in the use of timber by requiring the publishers of newspapers in Hawaii with a circulation of 25,000 or more per day to utilize newsprint containing a percentage of recycled materials.

Your Committee finds that the use of virgin materials for newsprint consumes large volumes of forest products, electrical energy, and water, as well as generates solid waste for disposal. Your Committee also finds that one method for decreasing the negative effects of the paper manufacturing process is to encourage the use of recycled paper for newsprint. Your Committee shares the concern of the newspaper industry that the cost of newsprint manufactured from recycled materials not exceed the cost of newsprint manufactured from virgin materials by a large amount, since such costs would be passed on to the consumer.

Your Committee on Conference has amended this bill by:

- (1) Including a purpose section;
- (2) Revising the definition of "consumer of newsprint" to read as follows: "Consumer of newsprint" means a person who uses newsprint in a commercial or government printing or publishing operation with a circulation of twenty-five thousand or more per day;
- (3) Deleting the goal for recycled content of newsprint for the year 2000;
- (4) Reducing the price differential between recycled-content newsprint and newsprint made from virgin materials to three percent of landed cost;
- (5) Deleting the reporting requirement for suppliers of newsprint; and
- (6) Permitting consumers of newsprint to satisfy the reporting requirement through publication in the newspaper.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2336, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2336, H.D. 1, S.D. 1, C.D. 1.

Senators Chang, Hagino and Reed.
Managers on the part of the Senate.

Representatives Hiraki, Morihara, Santiago, Young and Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 36 on H.B. No. 3233

The purpose of this Act is to create uses for recycled glass.

Your Committee finds that by using crushed glass as an aggregate in the mix used for roadways and other nonstructural applications, Hawaii could conserve limited landfill space, as well as save money.

Your Committee amended the bill by deleting any reference to speed limits on roadways when glassphalt is used, allowing this decision to be made by the Department of Transportation. Your Committee further amended the bill by making technical, nonsubstantive changes for purposes of clarity.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3233, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3233, H.D. 1, S.D. 1, C.D. 1.

Senators Yamasaki, Chang, Hagino, Levin and George.
Managers on the part of the Senate.

Representatives Hiraki, Oshiro, Morihara, Santiago, Young and Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 37 on H.B. No. 1930

The purpose of this bill is to:

- (1) Authorize a durable power of attorney for health care decisions except decisions regarding sterilization, abortion, psychosurgery, or withdrawal of life-sustaining treatment;
- (2) Require that the durable power of attorney shall only become effective upon the incapacity of the principal as determined by the licensed physician;
- (3) Prohibit any person from serving as both the treating physician and attorney-in-fact for matters related to health care decisions; and
- (4) Require that a durable power of attorney for health care decisions executed in compliance with current law and prior to the effective date of this bill, if enacted, remains valid.

Your Committee is in agreement that all competent persons (principals) have a fundamental right to control the decisions relating to their own medical care. In order that this right be recognized and respected, it is necessary that the laws of this State grant the right to make a durable power of attorney allowing an agent to make health care decisions for the principal.

Your Committee, therefore, has amended this bill by:

- (1) Clarifying that a competent person who has attained the age of majority can execute a durable power of attorney;
- (2) Mandating that the durable power of attorney made pursuant to this section must meet certain mechanical requirements, i.e., be in writing, signed by the principal, etc.;
- (3) Specifying that the durable power of attorney shall not be presumed to grant authority to prolong the principal's life through certain medical procedures unless authority is explicitly stated;
- (4) Providing a durable power of attorney sample form to be copied or changed to add more individualized instructions but also allowing for an entirely different format to be used; and
- (5) Making technical, nonsubstantive revisions for purposes of style and clarity.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1930, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1930, S.D. 2, C.D. 1.

Senators Blair, Levin, McMurdo and Koki.
Managers on the part of the Senate.

Senator McMurdo did not sign the report.

Representatives Metcalf, Amaral, Bainum, Hiraki, Shon and Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 38 on H.B. No. 599

The purpose of this bill, as received by your Committee on Conference, is to eliminate the requirements that jurors be assembled in panels of 18 by amending Sections 612-15, 612-17, and 612-18, Hawaii Revised Statutes.

After a full discussion on the issues regarding both versions of this bill, your Committee on Conference reached an understanding and agreed that there is no policy dispute between the House and the Senate. Each House agreed that there are merits to the elimination of all exemptions to serving on jury duty and eliminating the requirement that juries be assembled by panels. Consequently, this bill is amended by unreservedly incorporating the substantive material of both versions into this bill and making technical, nonsubstantive changes for the purposes of style and clarity.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 599, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 599, H.D. 1, S.D. 1, C.D. 1.

Senators Blair, Cobb and Reed.
Managers on the part of the Senate.

Representatives Metcalf, Hagino, Hiraki, Hirono and Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 39 on H.B. No. 3121

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

- (1) Provide that any member of the Commission may sign an order for a subpoena or remuneration for mileage or witness fees in the absence of the Chairperson;
- (2) Provide that the Commission may delegate to the Administrator the authority to adjudicate any case if certain prerequisites are met;
- (3) Delete the requirement that one Commission member must be an attorney; and
- (4) Provide that an applicant aggrieved by an order or decision may request a reconsideration of the Commission's decision providing that the request is made within 30 days after service of a certified copy of the order or decision.

After examining all the issues surrounding this measure, your Committee on Conference has amended this bill by:

- (1) Clarifying that subpoenas and orders shall only be issued under the signature of the chairperson or by majority vote of the commission members;
- (2) Deleting proposed language which would allow the Administrator to determine cases;
- (3) Clarifying that the Commission may delegate to the administrator the authority to sign any order approved by the Commission; and

(4) Making technical, nonsubstantive changes for the purposes of clarity, style, and consistency.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3121, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3121, H.D. 2, S.D. 1, C.D. 1.

Senators Yamasaki, Iwase, Kobayashi, A., Mizuguchi and Koki.
Managers on the part of the Senate.

Representatives Metcalf, Souki, Amaral, Cachola, Kawakami, Morihara, Tajiri and Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 40 on H.B. No. 2323

The purpose of this bill is to specify that the population base used to draw congressional district lines be based on the population counted in the last preceding United States census.

The bill specifies changes regarding the Reapportionment Commission (Commission) as follows:

- (1) In the event of a successful court challenge of a reapportionment plan, the Commission is to continue in operation and assist the court in formulating a new plan;
- (2) The Commission is to be constituted June 1 of each reapportionment year;
- (3) The Commission can be terminated when a general election is held under a reapportionment plan of a court of competent jurisdiction;
- (4) The Commission shall reapportion in accordance with the United States Constitution, not based on basic island units; and
- (5) The Commission shall publish a plan not more than one hundred days from the date on which all members are certified. The Chief Election Officer shall publish the plan not more than fourteen days after receiving the final plan.

The bill was amended to require that the Commission:

- (1) Submit a written report to the Legislature twenty days prior to the next convening regular session; and
- (2) Be constituted May 1 of each reapportionment year.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2323, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2323, S.D. 1, C.D. 1.

Senators Blair, Holt and Reed.
Managers on the part of the Senate.

Representatives Metcalf, Souki, Amaral, Kanoho, Oshiro, Tajiri, Takamine and Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 41 on H.B. No. 3726

The purpose of this bill is to require that legislators and employees file gift disclosure statements with the State Ethics Commission on June 30 of each year.

In order to promote public confidence in our government, it is important for the State Ethics Commission to monitor and prevent any abuse that may arise in situations involving election campaigns or the duties and services of a public official. Your Committee on Conference is in agreement that, despite a slight inconvenience, the filing of gift disclosure statements are necessary to further promote public confidence in our government as well as our public officials.

However, while your Committee on Conference is also concerned that the public has the right "to know" as well as a remedy to gain redress against acts of abuse committed by our public officials, to ensure fairness, there must also be a right for public officials to defend themselves against charges that are intentionally or knowingly false. Reasonable measures to prevent knowingly false charges from being filed must be taken to evenly balance all interests despite the possibility that penalties for knowingly filing false charges may have a chilling effect on legitimate charges being filed.

Your Committee on Conference, therefore, has amended this measure by restoring the language, as passed by the House, that created a new offense for intentionally or knowingly filing a false charge with the State Ethics Commission.

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

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3726, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3726, H.D. 1, S.D. 1, C.D. 1.

Senators Blair, McMurdo and Reed.

Managers on the part of the Senate.

Representatives Metcalf, Amaral, Oshiro, Takamine and Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 42 on H.B. No. 3303

The purpose of this bill is to establish reasonable and consistent fees for the research and reproduction of records in response to investigative subpoenas issued by the Attorney General or the county prosecutors. The fees are set at the rate of \$15 per hour for research time and 50 cents per page for reproduction.

Currently the fees charged by financial institutions that comply with investigative subpoenas vary extensively and may be in excess of actual costs. The bill directs the Legislative Auditor to conduct a study to determine the actual costs of such services and to report its findings to the Legislature twenty days prior to the convening of the 1994 legislative session.

The bill was amended by removing the requirement that this Act be repealed on June 1, 1994. The purpose of this amendment is to make the act permanent.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3303, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3303, H.D. 1, S.D. 1, C.D. 1.

Senators Blair, Matsuura and Reed.
Managers on the part of the Senate.

Representatives Metcalf, Amaral, Oshiro, Takamine and Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 43 on H.B. No. 2871

The purpose of this bill is to prohibit, except under limited conditions, the storing or keeping of a firearm on premises where a person under sixteen years old is likely to gain access without the permission of a parent or guardian.

Originally, the House version of this bill established a new section making it an offense if a person negligently stores a firearm and a minor subsequently obtains that firearm and uses it to cause injury or death to the minor's self or another. The Senate deleted this proposed section in their version of this measure believing that there existed the possibility of compounding a tragic and traumatic situation by having a family member incarcerated because of the inadvertent injury or death involving a minor of that family. Your Committee, however, despite the differences on versions of this bill, is in agreement that there is no excuse for the placing of a firearm within the grasp of a minor. An instrument such as this must be handled with care and caution in the home to protect the young.

After much discussion on the merits of this bill, your Committee amended this measure by creating an offence entitled "Criminally Negligent Storage of a Firearm."

This section:

- (1) Establishes that a person commits the offense of criminally negligent storage of a firearm if the person violates the proper storage procedures of a firearm, as contained in Section 1 of this bill, and a minor obtains the firearm;
- (2) Establishes that for the purposes of this newly created offense, "minor" means anyone under the age of sixteen years of age;
- (3) Establishes that this section shall not apply if the minor obtains the firearm as a result of an unlawful entry to any premise by any person;
- (4) Establishes that a violation of this section is a misdemeanor; and
- (5) Makes technical, nonsubstantive changes for the purpose of clarity and style.

Your Committee wishes to clarify that to effectuate this offense, the minor must be in possession of the firearm off the residence of the registered firearm owner.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2871, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2871, H.D. 1, S.D. 1, C.D. 1.

Senators Blair, Crozier and Reed.
Managers on the part of the Senate.

Representatives Metcalf, Amaral, Bainum, Hagino and Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 44 on H.B. No. 3424

The purpose of this bill is to include as public information the specific salaries of employees of the University of Hawaii unless they are in bargaining unit (8).

The intent of the bill, as currently drafted, is to exclude members of bargaining unit (8) or certain employees of the University of Hawaii, as well as its community college system, from reporting their specific salaries as public information. Your Committee, however, notes that the amended language manifesting this intent currently reads:

"... compensation (but only the salary range for employees... or included in chapters 76, 77, [297 or 304] 297 and bargaining unit (8))..."

This language, as previously drafted, may be interpreted to mean that salary ranges shall be reported as public information for the employee that is subject to the mandates of all chapters listed, as well as require that the employee be a member of bargaining unit (8). To clarify its legislative intent, your Committee has amended the bill by replacing the word "and" with the word "or".

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3424, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3424, S.D. 1, C.D. 1.

Senators Mizuguchi, Blair and Koki.
Managers on the part of the Senate.

Representatives Metcalf, Amaral, Arakaki, Hagino and Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 45 on H.B. No. 2604

The purpose of this bill is to amend Section 604-10.5, Hawaii Revised Statutes, relating to violation of orders enjoining and temporarily restraining harassers by:

- (1) Specifying that violations of temporary restraining orders or injunctions are misdemeanors;
- (2) Mandating a minimum jail sentence of not less than 48 hours for a subsequent violation of the same injunction or restraining order after the first conviction; and
- (3) Mandating a minimum jail sentence of not less than 30 days for a subsequent violation of the same injunction or restraining order after the second conviction.

Often, situations may arise where the court would be required to impose mandatory jail sentences for relatively trivial matters that do not involve violence or the threat of violence. In order to avoid the enactment of overly onerous legislation but yet provide as much protection for victims of violence as intended, your Committee on Conference has amended this bill to allow a court of competent jurisdiction to suspend mandatory jail sentences where the violation of the injunction or restraining order does not involve violence or the threat of violence.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2604, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2604, H.D. 1, S.D. 1, C.D. 1.

Senators Blair, Ikeda and Reed.
Managers on the part of the Senate.

Representatives Metcalf, Amaral, Arakaki, Hirono and Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 46 on H.B. No. 2597

The purpose of this bill is to mandate prison terms and increase fines for people who are convicted of intentionally importing, possessing, or selling snakes or other prohibited animals, plants, and microorganisms in the State of Hawaii. More specifically, the bill:

- (1) Mandates the disclosure of agricultural goods for all crew members and passengers of vessels entering the State;
- (2) Deletes references to "lists" in Section 150A-7(b), Hawaii Revised Statutes (HRS), to clarify that prohibited organisms also include those that are not in any list; and
- (3) Increases the grades of offenses in Chapter 150, HRS, and changes the corresponding penalties.

This measure is amended by:

- (1) Adding a section to allow for any member of the Department of Agriculture to request that a district judge issue a warrant, directed to any police officer in the circuit, to seize, capture, confiscate or remove a prohibited or restricted creature when the protection of animal or public health is necessary;
- (2) Inserting a provision in Section 150A-14(a) and (b), HRS, for a minimum fine of \$500 for any person, organization, or company that commits a second offense within five years of a prior offense; and
- (3) Changing the minimum and maximum fines under Section 150A-14(c), HRS, to \$500 and \$25,000 for any offense.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2597, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2597, H.D. 2, S.D. 2, C.D. 1.

Senators Blair, Chang and Reed.
Managers on the part of the Senate.

Representatives Honda, Metcalf, Amaral, Chang and Marumoto.
Managers on the part of the House.

Representative Marumoto did not sign the report.

Conf. Com. Rep. No. 47 on H.B. No. 3854

The purpose of this bill is to:

- (1) Make a knowing or intentional violation of a restraining order a misdemeanor;
- (2) Make a knowing or intentional violation of a temporary restraining order a misdemeanor;
- (3) Allow an order to be served by certified mail or to be served in person;
- (4) Make a knowing or intentional violation of a protection order a misdemeanor; and
- (5) Mandate a mandatory minimum jail sentence for a conviction of a violation of an injunction or a restraining order.

Your Committee on Conference notes that both the House and Senate versions of this bill agree that a knowing or intentional violation of a restraining order, temporary restraining order, protection order, or an injunction issued by a court is a serious matter especially when concerning the well-being of residents who seek protection through the judicial system. After discussing the issues associated with this matter, your Committee on Conference has amended this bill by:

- (1) Mandating that for a first conviction for violation of a restraining order a person shall serve a mandatory minimum jail sentence of 48 hours;
- (2) Mandating that for a second and any subsequent conviction for violation of a restraining order a person shall serve a minimum jail sentence of thirty days;
- (3) Requiring that a temporary restraining order state the acts a respondent or person to be enjoined is restrained from performing;
- (4) Establishing that the acts which a court may consider to enjoin a respondent for the purposes of issuing a temporary restraining order shall consist of:
 - (a) Contacting, threatening or physically abusing the petitioner(s);
 - (b) Contacting, threatening or physically abusing any person(s) residing at the petitioner(s)'s residence;
 - (c) Telephoning the petitioner(s);
 - (d) Entering or visiting the petitioner(s)'s residence; or
 - (e) Contacting, threatening or physically abusing the petitioner(s) at work;
- (5) Mandating that for a first conviction for violation of a temporary restraining order a person shall serve a mandatory minimum jail sentence of 48 hours;
- (6) Mandating that for a second and any subsequent conviction for violation of a temporary restraining order a person shall serve a minimum jail sentence of thirty days;
- (7) Establishing that if a temporary restraining order is granted orally in the presence of all the parties and the court determines that each of the parties understands the order and its conditions, then the order shall be effective as of the date it is orally stated on the record by the court until further order of the court;
- (8) Mandating that for a first conviction for violation of an injunction a violator shall be sentenced to a mandatory minimum jail sentence of not less than forty-eight hours;
- (9) Mandating that for the second and any subsequent for violation of the same injunction, the person shall be sentenced to a mandatory minimum jail sentence of not less than thirty days; and
- (10) Making technical, nonsubstantive changes for the purposes of clarity, style, and consistency.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3854, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3854, H.D. 1, S.D. 1, C.D. 1.

Senators Blair, Ikeda and Koki.
Managers on the part of the Senate.

Representatives Metcalf, Amaral, Arakaki, Hirono and Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 48 on H.B. No. 1926

The purpose of this bill is to:

- (1) Provide an injured party the right of civil action against any person who, under color of any law of the State or its political subdivisions, deprived the injured party of rights, privileges, or immunities secured by the Hawaii State Constitution or other law; and
- (2) Grant the Civil Rights Commission exclusive jurisdiction in discrimination actions for the first one hundred eighty days.

In many civil rights actions, the complainant is an individual of limited means and cannot afford attorneys' and expert witness fees. By providing an equitable remedy for a deprivation of rights plus a recovery for attorneys' and expert witness fees, your Committee hopes to preserve and protect the constitutional rights of all injured individuals.

Your Committee has amended this bill by:

- (1) Providing a purpose clause;
- (2) Limiting the remedy by clarifying that every person, including the State and its subdivisions, acting under the color of State law that deprives another person in this State any rights granted by the State constitution shall be subject to a suit for declaratory and injunctive relief by the party injured;
- (3) Allowing the prevailing party to be awarded reasonable attorneys' and expert witness fees; and
- (4) Making technical, nonsubstantive revisions for purposes of style and clarity.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1926, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1926, S.D. 1, C.D. 1.

Senators Blair, Matsuura and Koki.
Managers on the part of the Senate.

Representatives Metcalf, Amaral, Hagino, Takamine and Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 49 on H.B. No. 2496

The purpose of this bill is to conform real estate transactions law to the Federal Fair Housing Amendments Act of 1988, which protects the disabled and families with children from housing discrimination. The bill also contains a provision which would prohibit steering persons toward or away from a real estate transaction, and adds age as a protected group in a real estate transaction while still recognizing the special situation of housing designed for older persons.

Your Committee had concerns about several areas of the bill as follows:

- (1) A "hanai relationship" was not defined though it was added to the definition of "familial status". Therefore, your Committee has deleted this reference, but has retained the provision amending the definition to include children living with a person who have written or unwritten permission from the legal parent.
- (2) Your Committee also amended the bill to include a definition of "age" and clarified it to include people over the age of majority and emancipated minors and prohibited discrimination in real estate transactions based on age.
- (3) The definition of "handicapped status" excluded persons who engaged in "illegal" drug abuse which threatens the property or safety of others. Your Committee deleted the word "illegal" so that drug abuse which threatens the property or safety of others would not place the person within the protected category of "handicapped status."
- (4) Section 8 of the bill, which refers to religious institutions, was revised to indicate that a religious institution may not discriminate in a real property transaction if membership in the religion is restricted on the basis of race, color, or ancestry. Federal law imposes these requirements upon religious organizations, and this section will now comply with federal requirements.

Other nonsubstantive revisions were made for purposes of style and clarity.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2496, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2496, H.D. 1, S.D. 1, C.D. 1.

Senators Crozier, Aki and Koki.
Managers on the part of the Senate.

Representatives Hirono, Metcalf, Morihara, Takamine and Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 50 on H.B. No. 3032

The purpose of this bill is to amend Hawaii's Lemon Law in order to respond to certain concerns of consumers, manufacturers, and arbitrators who have participated in the lemon law arbitration process. Specifically the bill adds a new chapter to the Hawaii Revised Statutes, which will replace §490:2-313.1 and §490:2-313.2, Hawaii revised Statutes.

Your Committee finds that the choice of business entity (corporation, partnership or sole proprietorship) should not be the sole basis for exclusion from the protection of the lemon law. Small business entities often face the same kinds of problems that the Lemon Law was intended to address for individual consumers. Accordingly, your Committee amended the definition of "motor vehicle" to include a vehicle owned or leased by the types of businesses listed above, if the entity has purchased or leased one vehicle per year, and it is used for household, individual, or personal use as well as business use.

Your Committee also addressed concerns regarding the written notice required pursuant to § -3(g), and who is best able to provide that information to the consumer. Because the consumer has direct contact with the dealer who sells the vehicle, and not the manufacturer, your Committee amended the bill by making the dealer, and not the manufacturer, directly responsible for providing the notice. In doing this, your Committee does not intend to shift any of the other responsibilities charged to manufacturers under this chapter. Dealers will serve merely as the conduit to provide the written notice to consumers.

Nineteen technical, nonsubstantive amendments were made for the sake of clarity and style. An unnecessary phrase was deleted from § -3(b), (d)(3), and (f), and grammatical corrections were made throughout the bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3032, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3032, H.D. 1, S.D. 1, C.D. 1.

Senators Ikeda, Crozier, Iwase and Koki.
Managers on the part of the Senate.

Representatives Hirono, Metcalf, Amaral, Arakaki, Morihara and Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 51 on S.B. No. 576

The purpose of this bill is to amend provisions in the Traffic Code relating to traffic accidents and injuries.

Under the current law, drivers who fail to stop and render aid in traffic accidents that involve death or personal injury can be fined up to \$1,000 or imprisoned up to ten years, or both, regardless of the degree or severity of the injury. This bill amends the current law by (1) delineating grades of the offense of failure to give information and render aid, based on the severity of the injury involved; and (2) defining the injury categories based on the definitions used in the Hawaii Penal Code.

Your Committee restructured and amended the bill by:

(1) Establishing three separate offenses for failure to give information and render aid in accidents resulting in personal injury. Under these new provisions, a person will be charged with a misdemeanor in an accident involving bodily injury, a class C felony in an accident involving substantial bodily injury, and a class B felony in an accident involving death or serious bodily injury. In cases involving death or serious bodily injury, a convicted offender's license is automatically revoked. In cases involving less than serious bodily injury, license revocation is discretionary under section 286-15, Hawaii Revised Statutes.

(2) Making other conforming amendments and other technical, nonsubstantive changes for purposes of consistency, clarity, and style.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 576, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 576, S.D. 2, H.D. 2, C.D. 1.

Senators Blair, Fernandes Salling and Koki.
Managers on the part of the Senate.

Representatives Oshiro, Metcalf, Amaral, Baker, Yonamine and Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 52 on S.B. No. 2592

The purpose of this bill is to upgrade the offense of theft of a firearm, dynamite or other explosive from a class C to a class B felony.

Your Committee finds that the serious and hazardous nature of firearm thefts and thefts of dynamite and other explosives justify the upgrade in the penalty and classification.

Your Committee made technical corrections to the bill.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2592, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2592, S.D. 1, H.D. 1, C.D. 1.

Senators Blair, Cobb and Koki.
Managers on the part of the Senate.

Representatives Metcalf, Amaral, Morihara, Thompson III and Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 53 on S.B. No. 3157

The purpose of this bill is to amend section 291-5, Hawaii Revised Statutes, to allow the admission of competent evidence of a person's blood alcohol content, even if it was obtained more than three hours after the alleged offense, provided that the evidence is offered in compliance with the Hawaii Rules of Evidence.

Section 291-5 establishes certain principles regarding the admissibility of blood alcohol tests. It is read in conjunction with section 321-161, Hawaii Revised Statutes, under which the director of health is mandated to establish a statewide program for blood alcohol testing including rules which establish minimum qualifications for testing personnel and test procedures.

Section 291-5(a) provides that a test result of .10, obtained pursuant to an approved test taken within three hours of the offense, is deemed to be competent evidence that the defendant was under the influence at the time of the incident. Evidence of a particular blood alcohol level obtained in compliance with these requirements is admissible per se, without having to adduce medical testimony of what the defendant's blood alcohol level was at the precise time of the incident and without having to lay a foundation as to all of the scientific principles on which the testing equipment operates so long as the analysis or technique has been approved pursuant to section 321-161.

Section 291-5(b) establishes certain evidentiary presumptions based upon particular blood alcohol results, and section 291-5(c) clarifies that subsection (b) does not preclude the introduction of other competent evidence bearing on whether or not the defendant was under the influence at the time of the incident.

This bill is intended to eliminate any negative inference in section 291-5(a) and make it clear that nothing in section 291-5 precludes the admission of the results of tests taken after the three-hour limit, provided that they are offered in compliance with the Hawaii Rules of Evidence.

Your Committee amended the bill by substituting the word "relevant" for the word "competent", to be consistent with terminology used in the Hawaii Rules of Evidence, and by making other nonsubstantive amendments.

Your Committee finds that this bill is consistent with the purpose of section 291-5, which is to streamline the presentation of evidence by eliminating certain foundational requirements in most cases, without precluding the introduction of foundational and extrapolation evidence where more than three hours passed between the time of the offense and the time the blood sample was obtained.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 3157, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 3157, S.D. 1, H.D. 2, C.D. 1.

Senators Blair, Holt and Reed.
Managers on the part of the Senate.

Representatives Oshiro, Metcalf, Amaral, Baker, Yonamine and Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 54 on S.B. No. 1347

The purpose of this bill is to amend provisions in Chapters 346, 578 and 587, Hawaii Revised Statutes, relating to child protective and welfare services. More specifically, the bill:

- (1) Establishes an adoptive assistance program within the Department of Human Services (DHS) to provide assistance to facilitate the adoption of children with special needs;
- (2) Provides that when adoption is the goal of a permanent plan, DHS may petition for adoption on behalf of the proposed adoptive parents under Chapter 578;
- (3) Amends section 578-2, Hawaii Revised Statutes, so that in an adoption proceeding, the court may dispense with consent of a parent whose parental and custodial duties and rights have been divested pursuant to section 587-73;
- (4) Emphasizes the importance of helping affected families establish a safe home, taking into consideration the religious, cultural and ethnic values of the family in the formulation of a service plan, and the need for timely resolution of child protective cases;
- (5) Amends and updates definitions in Chapter 587;

- (6) Authorizes DHS to enlist the cooperation of the police in its investigations, including the sharing of criminal history background information, and to interview a child subject to a child protective investigation without the approval or presence of the family, without having to place the child in full protective custody;
- (7) Shortens the time for completion of a voluntary service plans and for resolution of cases;
- (8) Restates the safe home guidelines to make them more understandable and useful to the child welfare worker;
- (9) Fleshes out the details of service plans to give affected families more guidance in following the plans without confusing or overwhelming them;
- (10) Provides that a permanent plan should include a clear and convincing explanation why guardianship is preferable to adoption if adoption is not chosen, or why permanent custody is preferable to a guardianship if neither adoption or guardianship is chosen;
- (11) Clarifies what should be included in documents that are submitted to the family court in child protective proceedings;
- (12) Provides that a guardian ad litem will not be automatically terminated upon an award of permanent custody;
- (13) Repeals section 587-74, Hawaii Revised Statutes, relating to adoption proceedings, and amends provisions citing that section to refer appropriately to Chapter 578;
- (14) Defines which family members would be divested of parental or custodial rights under section 587-73, Hawaii Revised Statutes;
- (15) Includes guardianship along with adoption and permanent custody as a permanent plan for the child once it has been clearly determined that the child cannot return home; and
- (16) Makes other technical amendments for purposes of clarity, consistency and style.

Your Committee amended the bill by changing the effective date to January 1, 1993 to insure a smooth transition in the implementation of this Act. Your Committee also made a few minor technical, nonsubstantive amendments.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1347, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1347, S.D. 2, H.D. 1, C.D. 1.

Senators Blair, Levin, McMurdo and Koki.
Managers on the part of the Senate.

Representatives Metcalf, Amaral, Hirono, Morihara and Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 55 on S.B. No. 3179

The purpose of this bill is to make it a misdemeanor for the owner of any animal, or any person with knowledge that an animal belongs to another person, to desert the animal.

Your Committee has amended the bill by replacing much of the existing language with terminology that is clearer, more definite, and therefore easier to apply and enforce. Specifically, the amendments clarify that leaving an animal without the intention of returning to it (rather than deserting it with the intent of abandoning it) is the gist of the offense, and that possession of the animal is an element applicable to a non-owner.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 3179, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 3179, S.D. 1, H.D. 2, C.D. 1.

Senators Chang, Levin and Reed.
Managers on the part of the Senate.

Representatives Honda, Metcalf, Amaral, Chang, Kanoho and Marumoto.
Managers on the part of the House.

Conf. Com. Rep. No. 56 on S.B. No. 3098

The purpose of this bill is to allow the installation of solar energy devices on rooftops of single family residential dwellings, notwithstanding any subdivision covenants or contract provisions to the contrary.

Upon further consideration, your Committee has amended the bill by including townhouses within its coverage, and by making nonsubstantive technical amendments for the purposes of clarity and style.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 3098, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 3098, S.D. 1, H.D. 1, C.D. 1.

Senators Crozier, Aki and Reed.
Managers on the part of the Senate.

Senator Reed did not sign the report.

Representatives Hiraki, Hirono, Isbell and Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 57 on S.B. No. 3354

The purpose of this bill is to strengthen the laws against harassment. More specifically, the bill:

- (1) Creates a new offense of harassment by stalking. A person commits the offense of harassment by stalking if, with the intent to harass, annoy, or alarm another person, or in reckless disregard of the risk thereof, a person pursues or conducts surveillance upon another without legitimate purpose and under circumstances which would cause the other to reasonably believe that the actor intends to cause bodily injury or property damage;
- (2) Provides that harassment by stalking is a petty misdemeanor unless committed on more than one occasion for the same or similar purpose, in which case the penalty elevates to a misdemeanor;
- (3) Authorizes the court to require an offender convicted of harassment by stalking to undergo counseling;
- (4) Amends section 711-1106(1)(c), Hawaii Revised Statutes, to prohibit making a telephone call without a legitimate purpose which would cause the recipient to reasonably believe that the act or intends to cause bodily injury or property damage;
- (5) Amends section 711-1106(1)(d), Hawaii Revised Statutes, to prohibit making repeated communications anonymously, or at an extremely inconvenient hour, or in offensively coarse language, or by a facsimile transmission which would cause the recipient to reasonably believe that the actor intends to cause bodily injury or property damage; and
- (6) Makes technical, nonsubstantive changes for purposes of clarity, style and consistency.

Your Committee amended the bill by:

- (1) Amending the purpose section;
- (2) Including in paragraph (b) of section 711-1106 (1), insults, taunts, or challenges which would cause another person to reasonably believe that the actor intends to cause bodily injury or property damage. This provision is to address situations where, for example, given the size of the perpetrator or number of perpetrators, the conduct is harassment that is not likely to provoke a violent response;
- (3) Moving the language regarding facsimile transmissions from paragraph (d) to the more analogous paragraph (c) of section 711-1106(1), Hawaii Revised Statutes, pertaining to telephone calls; and
- (4) Deleting the word "repeated" from anonymous communications in paragraph (d) of section 711-1106(1), Hawaii Revised Statutes, since an anonymous communication which would cause the recipient to believe that the actor intends to cause bodily injury or property damage should be treated the same as any other unwanted communication which would cause the same result.
- (5) Adding a new paragraph to include repeated communications, where the recipient of the communication has advised the maker that further communication is unwelcome.

Your Committee finds that this bill, as amended, will provide greater protection to victims of harassment while at the same time preserving the rights of citizens to engage in political expression and ordinary communication.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 3354, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 3354, S.D. 1, H.D. 1, C.D. 1.

Senators Blair, Tungpalan and Reed.
Managers on the part of the Senate.

Representatives Metcalf, Amaral, Hiraki, Hirono and Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 58 on S.B. No. 2896

The purpose of this bill is to amend Chapter 329B, Hawaii Revised Statutes, to clarify the substance abuse testing procedures used when testing inmates in the care and custody of the Department of Public Safety.

First, the bill, as received by your Committee, adds a new section to Chapter 329B that:

- (1) Requires, in all instances where inmates are subjected to substance abuse testing that may result in sanctions or punishment being imposed against the inmate, all samples are to be sent to a licensed, certified laboratory for the initial screening and confirmatory test;

- (2) Exempts substance abuse testing of inmates for purpose of treatment and counseling from the requirements of the new section;
- (3) Establishes procedures for the taking and keeping of samples;
- (4) Requires the Director of the Department of Public Safety to promulgate rules pursuant to Chapter 91, Hawaii Revised Statutes, establishing chain-of-custody procedures to ensure proper identification, labeling and handling of test samples; and

Second, the bill excludes from the definition of "substance abuse test" in section 329B-2, Hawaii Revised Statutes, urinalysis testing of individuals who are under the care and custody of any state agency if the testing is done by or at the expense of the state agency.

Your Committee amended the bill by:

- (1) Replacing the requirement that specimens be taken at the facilities' medical unit by medical personnel and that all specimens be sent to a licensed, certified laboratory with a requirement that a tested inmate be afforded the option of a confirmatory test by a licensed, certified laboratory. The cost of the confirmatory test will be at the State's expense except where the results of the test are positive, in which case the inmate will be charged with the cost of the confirmatory test;
- (2) Deleting the requirement that the Director of the Department of Public Safety promulgate rules pursuant to Chapter 91, Hawaii Revised Statutes;
- (3) Clarifying that the chain-of-custody procedure includes a tracking form documenting the handling and storage of the specimen from collection to final disposition of the specimen;
- (4) Clarifying that the exclusion from the definition of substance abuse test refers to substance abuse testing of individuals under the care and custody of the Department of Public Safety; and
- (5) Making technical, nonsubstantive changes for purposes of clarity, consistency and style.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2896, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2896, H.D. 2, C.D. 1.

Senators Blair, Matsuura and Koki.
Managers on the part of the Senate.

Representatives Shon, Metcalf, Amaral, Arakaki, Duldulao and Tatibouet.
Managers on the part of the House.

Conf. Com. Rep. No. 59 on S.B. No. 2382 (Majority)

The purpose of this bill is to establish a permanent needle exchange program and allow the Director of Health to terminate the program if it no longer serves its intended purpose or poses a threat to public health and safety.

Your Committee finds that the needle exchange program is intended to reduce the transmission of HIV by reducing the availability of contaminated needle and syringe units through a one-to-one exchange of used units for sterile units. Your Committee further finds that this program provides a vital link with intravenous drug users by allowing routine contact with a public health worker who can provide education about HIV risks and make referrals to medical and social service agencies.

Your Committee recognizes that this type of program is not the complete solution for the injection drug user population. Instead, it serves as a stop-gap measure to reduce the transmission of various blood borne diseases and provides a first step towards eventual treatment for certain users. To significantly address the problem, however, your Committee finds that the sterile needle and syringe exchange program must be paired with a strong educational and counseling program. Accordingly, your Committee encourages all parties to look into the development of such a program.

Your Committee on Conference has amended this bill by requiring the Department of Health to include in its annual budget testimony, or in a separate appropriation bill, the estimated funding necessary to provide substance abuse treatment, referral, and counseling services for needle exchange program participants who request the services. This estimate is to reflect the amount needed to provide additional services and shall not be construed to replace the current funding level for all other substance abuse programs nor to displace other participants in such programs.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2382, S.D. 1, H.D. 3, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2382, S.D. 1, H.D. 3, C.D. 1.

Senators McMurdo, Kobayashi, B., Levin and Koki.
Managers on the part of the Senate.

Senator Koki did not concur.

Representatives Shon, Metcalf, Souki, Alcon, Amaral, Arakaki, Oshiro and Tatibouet.
Managers on the part of the House.

Conf. Com. Rep. No. 60 on S.B. No. 276

The purpose of this bill is to protect wildlife while still allowing specified plastic devices to be used to connect consumer goods.

Allowable plastic devices are those which:

- (1) Do not contain an enclosed hole or circle of more than 1 1/4 inch in diameter; or
- (2) Have rings that break at the time the beverage container or other consumer good is removed from the ring.

The bill includes penalty provisions that are identical to those in Section 339-7, Hawaii Revised Statutes (HRS), relating to beverage containers with detachable pull-tabs.

Upon further consideration, your Committee has amended the bill by clarifying that it pertains to plastic connecting devices and by rewording the penalty provisions to conform them to the language found in Section 339-24, HRS.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 276, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 276, S.D. 1, H.D. 2, C.D. 1.

Senators Chang, Levin and Reed.
Managers on the part of the Senate.

Senator Reed did not sign the report.

Representatives Hiraki, Metcalf, Alcon, Amaral, Morihara, Santiago and Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 61 on S.B. No. 2229

The purpose of this bill is to amend rule 404 of the Hawaii Rules of Evidence by:

(1) Allowing proof of prior similar acts committed by the same person against the same victim in felony cases under chapter 707 of the Hawaii Penal Code and in misdemeanor and felony cases under chapter 709 to afford an inference that the person likely committed the present crime, and in self-defense cases to show that the alleged victim was the first aggressor;

(2) Limiting the admissibility of evidence to prior similar acts committed five years prior to the incident which is the basis for the present case;

(3) Requiring the proponent to provide reasonable notice of the intent to offer such evidence and to describe the general nature of the evidence; and

(4) Inserting a provision directing the Revisor of Statutes to take appropriate action to publish the commentary to the Hawaii Rules of Evidence.

Your Committee amended the bill by:

(1) Amending the purpose clause;

(2) Limiting admission of evidence of prior similar acts to acts committed (A) within thirty-six months prior to an incident which is the basis for a felony case or an equivalent self-defense case; or (B) within twenty-four months prior to an incident which is the basis for a misdemeanor case or an equivalent self-defense case; and

(3) Making other technical, nonsubstantive changes for purposes of clarity, consistency and style.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2229, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2229, S.D. 1, H.D. 1, C.D. 1.

Senators Blair, Holt and Reed.
Managers on the part of the Senate.

Senator Reed did not sign the report.

Representatives Metcalf, Amaral, Hagino, Hirono and Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 62 on S.B. No. 2674

The purpose of this bill is to improve the administration and efficiency of the Child Support Enforcement Agency (CSEA) and the child support enforcement process and to make the provisions consistent with federal law. More specifically, the bill:

(1) Makes Hawaii law consistent with federal law, by requiring that the family court review the child support guidelines at least once every four years;

(2) Allows a portion of the interest earned from CSEA's special interest bearing account established for child support payments to be used for the maintenance and operation costs of the account;

(3) Clarifies that the CSEA investigators have appropriate access, including automated inquiry access, to records notwithstanding any provisions for confidentiality except those in the Uniform Information Practices Act (Modified);

(4) Authorizes the disclosure of child support information for enforcement purposes, thereby authorizing CSEA to publish the identities of parents owing support; and

(5) Gives hearings officers the discretion to hold hearings by telephone or by other electronic telecommunication methods. Under existing law, all parties to a hearing must consent before electronic telecommunication methods can be used. Under the requirement of the Federal Family Support Act, CSEA must review and adjust orders where one or more parents reside outside of Hawaii. Travel costs and expenses can be controlled if the hearings officer has the sole discretion to determine when electronic telecommunication use is warranted.

Your Committee clarified the reference to chapter 92F, the Uniform Information Practices Act (Modified), so as not to preclude CSEA investigators from gaining access to otherwise confidential records of other agencies since the reference to Chapter 92F is not intended to preclude access to CSEA but rather to restrict CSEA from disclosing that information to others.

Your Committee also made a technical, nonsubstantive amendment for the purpose of clarity.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2674, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2674, S.D. 1, H.D. 2, C.D. 1.

Senators Blair, McMurdo and Koki.
Managers on the part of the Senate.

Representatives Tom, Souki, Chun, Duldulao, Ige, M., and Tatibouet.
Managers on the part of the House.

Conf. Com. Rep. No. 63 on S.B. No. 2729

The purpose of this bill is to (1) streamline the review, research and recordation of documents in the Bureau of Conveyances and Land Court; (2) authorize the Department of Land and Natural Resources to establish a fee schedule with respect to the review, research and recording of documents in the Bureau under rules pursuant to Chapter 91, Hawaii Revised Statutes; (3) increase or clarify the fees charged by the Bureau and Land Court; and (4) make various housekeeping amendments in Chapters 501 and 502, Hawaii Revised Statutes.

Your Committee amended the bill by increasing the fee in section 501-218(27) for filing any order after original registration from \$1 to \$5 to cover filing costs, and making few typographical corrections.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2729, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2729, S.D. 1, H.D. 1, C.D. 1.

Senators Blair, Crozier and Koki.
Managers on the part of the Senate.

Representatives Hirono, Metcalf, Amaral, Morihara, Takamine and Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 64 on S.B. No. 2900

The purpose of this bill is to authorize the Director of Public Safety to transfer prisoners to federal or out-of-state correctional institutions without seeking gubernatorial approval.

Currently the Governor must authorize such actions.

Your Committee finds that this bill will facilitate necessary transfers and thus enhance correctional efficiency in this State. In addition, this bill will help make Hawaii's correctional policies consonant with the national trend to empower departments to make these decisions.

Your Committee has amended this bill by authorizing the Director to transfer Hawaii inmates to out-of-state correctional facilities developed, owned, and operated by the State pursuant to agreements negotiated by the Governor and the Director with the out-of-state jurisdiction and approved by the Legislature by concurrent resolution.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2900, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2900, S.D. 1, H.D. 1, C.D. 1.

Senators Mizuguchi, Crozier and Koki.
Managers on the part of the Senate.

Representatives Metcalf, Amaral, Morihara, Thompson III and Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 65 on S.B. No. 2653

The purpose of this bill is to establish criteria to ensure that the Department of Health has sufficient authority to adopt rules relative to the design, location, operation, closure and post closure maintenance of Municipal Solid Waste Landfills (MSW Landfills) as provided for by 40 C.F.R. 258, also known as Subtitle D.

By adopting rules in compliance with Subtitle D, the State would achieve "approved status" and gain considerable flexibility in the regulation of new and existing MSW Landfills. If the State fails to gain "approved status" by adopting rules in compliance with Subtitle D by October 9, 1993, the federal regulations will take effect automatically, providing no flexibility for the counties to propose alternative designs for landfills compatible with local conditions. The failure to gain "approved status" will force the counties and other landfill operators to meet strict design standards and cost the counties and Hawaii's taxpayers millions of dollars over the next few years.

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

- (1) Authorizing the Director of Health to adopt rules providing for public participation in the review of applications for permits, permit renewals and modifications, selection of corrective action remedies and related matters;
- (2) Exempting federally approved programs from provisions construing a failure to act on an application for a permit required for solid waste pollution control as a grant of the application; and
- (3) Making nonsubstantive technical amendments for the purposes of clarity and style.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2653, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2653, S.D. 1, H.D. 1, C.D. 1.

Senators Chang, Solomon and Reed.
Managers on the part of the Senate.

Senator Reed did not sign the report.

Representatives Hiraki, Ihara Jr., Metcalf, Shon, Morihara, Young and Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 66 on S.B. No. 2420

The purpose of this bill is to establish a food safety consultation and education program within the Department of Health. Your Committee finds that food handlers and food industry managers who are educated about sanitary conditions in food preparation are essential for the control of germs and toxins in foods served to the public. Your Committee further finds that the Department of Health has been working with the Hawaii Restaurant Association to develop an educational program to attain voluntary compliance with food safety regulations from restaurants.

Your Committee, upon further consideration, has amended S.B. No. 2420, S.D. 1, H.D. 2, by including the findings and purpose section in the new part created under Chapter 321. Your Committee also amended the section on public monitoring for purposes of grammar and sentence structure without any effect on the substance.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2420, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2420, S.D. 1, H.D. 2, C.D. 1.

Senators McMurdo, Kobayashi, B., Levin and Koki.
Managers on the part of the Senate.

Representatives Souki, Chun, Duldulao, Say, Shon, Tajiri and Tatibouet.
Managers on the part of the House.

Conf. Com. Rep. No. 67 on S.B. No. 3271

The purpose of this bill is to strengthen the laws relating to unlicensed contracting.

Specifically, the bill proposes to: (1) raise the "handyman" exemption from \$100 to \$500 to update the statute with a realistic, inflation-adjusted amount; (2) allow verifiable self-employment experience as credit towards obtaining a contractor's license; (3) raise the fine for aiding and abetting an unlicensed contractor and to make it easier to prosecute those who do; and (4) provide a consumer with a thirty-day period in which to cancel a contract consummated by an unlicensed contractor in a door-to-door sale.

Your Committee finds that the practice of unlicensed contracting continues to plague the State and licensed contractors have exacerbated the problem by refusing to take smaller jobs, especially when the construction market is booming. In the DCCA's special report to the Legislature, Unlicensed Contracting: Everyone's Problem, Everyone's Fight, licensed contractors agreed to establish a referral program so that any consumer seeking the services of a licensed contractor could obtain such services regardless of the size of the job. However, since the agreement was made, no referral program has been established.

Therefore, your Committee has amended the bill by increasing the handyman exemption to \$1,000, and by inserting a provision which would prohibit an owner-builder from using the owner-builder exemption under Section 444-2(7), Hawaii Revised Statutes, for three years if the owner-builder sells or leases the improved structure within one year of the improvement.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 3271, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 3271, S.D. 1, H.D. 1, C.D. 1.

Senators Ikeda, Cobb, Iwase and Koki.
Managers on the part of the Senate.

Representatives Hirono, Metcalf, Amaral, Morihara, Oshiro and Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 68 on S.B. No. 2922

The purpose of this bill is to amend and repeal various professional and vocational licensing provisions of the Hawaii Revised Statutes for purposes of clarity and uniformity.

In 1991, the Legislature passed Act 111, the Uniform Professional and Vocational Licensing Act, which represented the first phase of the efforts of the Departments of Commerce and Consumer Affairs and the Attorney General to fashion a uniform licensing law. Act 111 was codified as Chapter 436B, Hawaii Revised Statutes.

By amending Chapter 436B and conforming various licensing statutes to the provisions of that chapter, this measure completes the second phase in the establishment of the uniform licensing law. Most of the amendments made by this bill eliminate duplicative administrative provisions from the various licensing chapters.

Your Committee has amended the bill by: (1) correcting an erroneous reference to the departmental affiliation of the long-term care ombudsman at page 134, line 12; (2) correcting a minor Ramseyer format error at page 190, line 20; and (3) changing from bold to standard print section title material to be deleted, in accordance with standard Senate drafting style.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2922, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2922, S.D. 2, H.D. 2, C.D. 1.

Senators Yamasaki, Cobb, Ikeda, Iwase and Koki.
Managers on the part of the Senate.

Senator Cobb did not sign the report.

Representatives Hirono, Souki, Alcon, Duldulao, Morihara and Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 69 on S.B. No. 2454

The purpose of this bill is to allow physicians to require the use of brand name pharmaceuticals when medically necessary.

Your Committee finds that the use of generic drug products can provide less costly medication for persons who may be adequately treated with such generics. However, your Committee further finds that there are certain conditions, such as epilepsy, for which substitutions can have detrimental effects.

Epileptics are an exceptional group and additional information was presented which persuaded your Committee that this group is dissimilar to other groups. The consequences of variation in anti-epileptic prescribed medication are unparalleled due to the uniqueness of this medical condition.

Accordingly, your Committee has amended this bill by prohibiting the substitution of equivalent drug products for anti-epileptic drugs, except upon the consent of the prescriber and the patient, or the patient's parent or guardian.

Your Committee reiterates its support for the generic drug law and urges substitution of drugs when appropriate. The exception provided for anti-epileptic drugs applies because of the unique consequences of substitution of anti-epileptic drugs, and is not to be construed as a policy decision to allow other exceptions to the generic drug law.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2454, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2454, S.D. 1, H.D. 2, C.D. 1.

Senators McMurdo, Levin and Koki.
Managers on the part of the Senate.

Representatives Shon, Hirono, Metcalf, Amaral, Bainum, Duldulao, Hiraki, Morihara and Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 70 on S.B. No. 2678

The purpose of this bill is to conform State laws with the provisions of the federal Prescription Drug Marketing Act of 1987 (PDMA) and the Code of Federal Regulations (21 C.F.R. part 205) by:

- (1) Authorizing the Board of Pharmacy to establish licensure requirements for wholesale prescription drug distributors;
- (2) Directing the Department of Health to inspect the facilities, operations, and administrative practices of wholesale prescription drug distributors; and
- (3) Establishing minimum standards in conformance with federal mandates regarding the storage and handling of prescription drugs.

Your Committee finds that the failure to bring State law into compliance with federal standards by September 14, 1992 would require the federal Food and Drug Administration to prohibit the receipt by local prescription drug wholesalers of prescription drugs shipped in interstate commerce. This bill is therefore necessary to ensure the continued supply of reasonably priced prescription drugs for the members of the consuming public who need them.

Upon further consideration, your Committee has amended the bill by inserting the provisions of Sections 7 through 11, dealing with storage and handling, recordkeeping, and other requirements applicable to prescription drugs, into Section 2, making these provisions a part of Chapter 328, Hawaii Revised Statutes, deleting Section 12, and renumbering the remaining sections. These amendments would require legislative authorization for any change in procedures relating to wholesale prescription drug distributors.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2678, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2678, S.D. 1, H.D. 1, C.D. 1.

Senators Ikeda, Iwase and Koki.
Managers on the part of the Senate.

Representatives Hirono, Metcalf, Amaral, Hiraki, Morihara and Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 71 on S.B. No. 2770

The purpose of this bill is to place underground storage tank contractors under the regulatory oversight of the Contractor's License Board.

Currently, there is no regulation of this work, although persons who are basically unqualified hold themselves forth as such contractors and pose an incipient danger to the health and safety of citizens and the environment.

In view of the pressing need to regulate these activities, your Committee has amended this bill by deleting its contents and inserting a new section to Chapter 444, Hawaii Revised Statutes, providing for immediate control and formal regulation of persons who engage in underground storage tank work. Specifically, the new section provides that:

- (1) "Underground storage work" means installation and removal of systems, retrofitting, repair, transport, or disposal;
- (2) Effective immediately no person shall engage in underground storage work without being under the direct supervision of a geologist or licensed engineer or architect and can prove it by a letter of agreement with the supervising professional;
- (3) After June 30, 1994, no person shall do underground storage tank work without the direct supervision (letter included) of a geologist or licensed engineer or architect registered, licensed, or otherwise regulated pursuant to rules adopted by the Department of Health;
- (4) The Departments of Commerce and Consumer Affairs, Labor and Industrial Relations, and Health may apply for injunctive relief where a health, safety, or environmental hazard is imminent, and shall have complete access to the contractor's or licensee's records for inspection purposes;
- (5) Violation of the section or impeding a department carrying out inspections or enforcement activities shall be a misdemeanor; and
- (6) A violator may also be subject to administrative fines of \$5,000 per day for each day a violation occurs.

As amended, the supervising professionals will be under the jurisdiction of the Contractors License Board as well as subject to licensing by the Department of Health, and the Department is directed to adopt rules for licensing to be effective by July 1, 1994.

Your Committee believes that this bill, as amended, will provide the immediate and long-term regulation necessary to protect the general public and the environment.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2770, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2770, S.D. 1, H.D. 1, C.D. 1.

Senators Ikeda, Chang, Iwase and Koki.
Managers on the part of the Senate.

Representatives Hirono, Metcalf, Amaral, Morihara, Oshiro and Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 72 on S.B. No. 3109

The purpose of this bill is to require insurers and self-insurers of rental vehicles to extend their personal injury and property damage coverage to properly licensed co-habitants and co-employees of the named lessee who drive the insured vehicle with the lessee's permission and, in the case of a co-employee, only if the lessee is present in the vehicle. The bill also requires the lessor to provide all parties in an accident involving a rental vehicle with all information it has pertaining to the accident.

Upon further consideration, your Committee has amended the bill by: (1) deleting those provisions requiring personal injury coverage; (2) broadening property damage coverage to include anyone operating the rental vehicle with the lessee's express permission; (3) exempting the insurer from liability if the vehicle is reported stolen within three days of discovery; and (4) providing the insurer and owner of a rental vehicle with a right of subrogation against the renter and operator for breach of the rental contract.

Your Committee stresses that the bill is in no way meant to restrict or supersede county ordinances regulating car rental companies. It is your Committee's intent that local ordinances affording greater protection or coverage shall continue to apply where enacted.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 3109, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 3109, S.D. 1, H.D. 1, C.D. 1.

Senators Ikeda, Iwase and Koki.
Managers on the part of the Senate.

Representatives Hirono, Amaral, Metcalf, Morihara and Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 73 on S.B. No. 1526

The purpose of this bill is to exempt shared telecommunications services (STS) in hotel and hotel-condo complexes from Public Utilities Commission (PUC) regulation.

Your Committee finds that state of the art telecommunications services would enhance economic development and business in Hawaii. Your Committee notes that shared telecommunications services have been successfully implemented in a majority of the states.

Upon further consideration your Committee has amended the bill by revising the definition of hotel/hotel condo complex as follows:

- (1) To clarify that a complex consists of any and all buildings or structures instead of one or more structures as contained in the previous draft of the bill.
- (2) To require that a complex include three or more customary hotel services other than living accommodations and the use of furniture and fixtures instead of one or more customary hotel services as contained in the previous draft of the bill.
- (3) To include all complexes which have fifty-one per cent or more of its units registered and subject to the transient accommodations tax instead of seventy-five per cent or more as contained in the previous draft of the bill.
- (4) To expand the list of customary hotel services to include room attendant service and concierge service.

Your Committee has also added a definition of shared telecommunications service.

Your Committee has decided to set aside the issue of the use of STS at telework centers because it understands that the PUC will investigate this matter during commission proceedings and rulemaking on the issue of STS. Your Committee further understands that the PUC will complete its work and report back to the legislature prior to the convening of the 1993 legislative session.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1526, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1526, S.D. 2, H.D. 2, C.D. 1.

Senators Matsuura, Holt and George.
Managers on the part of the Senate.

Representatives Cachola, Hirono, Honda, Lee, Morihara and Marumoto.
Managers on the part of the House.

Conf. Com. Rep. No. 74 on S.B. No. 2228

The purpose of this bill is to update the Hawaii Rules of Evidence pursuant to some of the less controversial recommendations made in the Final Report of the Committee on Hawaii Rules of Evidence. More specifically, the bill:

- (1) Deletes from rule 412 references to the term "rape", which is no longer used in the Hawaii Penal Code, and clarifies that the shield of Rule 412 applies only to evidence offered to prove the character of the victim;
- (2) Narrows the attorney-client privilege in rule 503 by adding two exceptions, which are based on the attorneys' professional responsibility rules;
- (3) Amends Rule 608 to allow specific instances of a witness's prior acts, for the purpose of attacking the witness' credibility, to be inquired into on cross-examination, and may, at the discretion of the court, be proved by extrinsic evidence. However, when a witness testifies to the character of another witness, relevant specific instances of the other witness' conduct may be inquired into on cross-examination but may not be proved by extrinsic evidence;
- (4) Amends Rule 702 so that, in determining the issue of assistance to the trier of fact, the court may consider the trustworthiness and validity of the scientific technique or mode of analysis employed by an expert witness;
- (5) Includes "sounds" within the meaning of "writings and recordings" for purposes of the original document rule requirement of Rule 1001;
- (6) Neutralizes gender language throughout the evidence code;
- (7) Makes other technical, nonsubstantive changes for purposes of clarity, conformity and style; and
- (8) Inserts a provision directing the revisor of statutes to take appropriate action to publish the commentary in the Hawaii Rules of Evidence.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2228, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2228, S.D. 1, H.D. 1, C.D. 1.

Senators Blair, Holt and Reed.
Managers on the part of the Senate.

Senator Reed did not sign the report.

Representatives Metcalf, Amaral, Hagino, Hirono and Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 75 on S.B. No. 2231

The purpose of this bill, as received, is to create two victim-counselor privileges - a sexual assault counselor-victim privilege and a domestic violence counselor-victim privilege - similar to the Massachusetts model. This bill also amends other provisions of the Hawaii Revised Statutes to reflect the addition of the two privileges and to exclude from the privileges those conversations which are disclosed pursuant to the duty to provide evidence in child abuse proceedings and to report suspected elder abuse.

Your Committee amended the bill by combining language proposed by the Senate in S.B. No. 2231, S.D. 1 and by the House of Representatives in S.B. No. 2231, S.D. 1, H.D. 1. More specifically, the amendments incorporate the House's bifurcation into the Senate's definition of a victim counselor, as a limitation on the scope of the definition. The House's definitions of "sexual assault crisis center" and "domestic violence program" are also included in the conference draft because these terms are central to the definitions of the two subclasses of victim counselors.

Thus, the new victim-counselor privilege, as established by this bill as amended, provides the following features:

- (1) Defines a "domestic violence victims' program" as any refuge, shelter, office, safe home, institution or center established for the purpose of offering assistance to victims of abuse through crisis intervention, medical, legal, or support counseling;
- (2) Defines a "sexual assault crisis center" as any office, institution, or center that offers assistance to victims of sexual assault and the families of such victims through crisis intervention, medical, and legal counseling;
- (3) Defines a "victim" as a person who consults a victim counselor for assistance in overcoming any adverse emotional or psychological effect of sexual assault, domestic violence, or child abuse;
- (4) Defines a "victim counselor" as either a sexual assault counselor or a domestic violence victims' counselor;
- (5) Defines a "sexual assault counselor" as a person who is employed by or is a volunteer in a sexual assault crisis center, has undergone a minimum of thirty-five hours of training, who is, or who reports to and is under the direct control and supervision of, a registered social worker, nurse, psychiatrist, psychologist, or psychotherapist and whose primary function is the rendering of advice, counseling or assistance to victims of sexual assault;
- (6) Defines a "domestic violence victims' counselor" as a person who is employed by or is a volunteer in a domestic violence victims' program, has undergone a minimum of twenty-five hours of training and who is, or who reports to and

is under the direct control and supervision of, a direct service supervisor of a domestic violence victims' program, and whose primary function is the rendering of advice, counseling, or assistance to victims of abuse;

(7) Defines a "victim counseling program" as any activity of a domestic violence victims' program or a sexual assault crisis center that has, as its primary function, the counseling and treatment of sexual assault, domestic violence, or child abuse victims and their families, and that operates independently of any law enforcement agency, prosecutor's office, or the department of human services.

With respect to the requirement that the program "operate independently" of any law enforcement agency, prosecutor's office, or the department of human services, your Committee could not agree and therefore did not adopt the language set forth in Standing Committee Report No. 1960 as follows:

"Furthermore, to insure that qualified victim counseling programs 'run independently,' future funding should not be channelled through law enforcement agencies or through the Department of Human Services."

(8) Defines a communication as "confidential" if not intended to be disclosed to third persons other than those to whom disclosure would be in furtherance of the provision of counseling or treatment services to the victim or those reasonably necessary for the transmission of the communication;

(9) Provides that a victim has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made to a victim counselor for the purpose of counseling or treatment of the victim for the emotional or psychological effects of sexual assault, domestic violence, or child abuse or neglect, and to refuse to provide evidence that would identify the name, location, or telephone number of a safe house, abuse shelter, or other facility that provided temporary emergency shelter to the victim;

(10) Provides that the privilege may be claimed by the victim, the victim's guardian or conservator, or the personal representative of a deceased victim;

(11) Provides that the victim counselor is presumed to have authority to claim the privilege but only on the victim's behalf;

(12) Establishes exceptions to the privilege consistent with the physician-patient and psychologist-client privilege; and

(13) Excludes from the privilege, mandatory reporting as required in Chapters 346, 350, 586 and 587 of the Hawaii Revised Statutes.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2231, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2231, S.D. 1, H.D. 1, C.D. 1.

Senators Blair, Holt and Reed.
Managers on the part of the Senate.

Senator Reed did not sign the report.

Representatives Metcalf, Amaral, Hagino, Hirono and Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 76 on S.B. No. 3145

The purpose of this bill is to amend section 134-6(a), Hawaii Revised Statutes, regarding the possession or use of a firearm in the commission of a felony. More specifically, the bill:

(1) Makes it unlawful to knowingly carry or have in a person's immediate control a firearm while engaged in the commission of a felony;

(2) Provides that a person shall not be prosecuted under section 134-6(a) where the separate felony involves a possessory gun offense under Chapter 346, the offense of reckless endangering in the first degree under section 707-713, or the offense of terroristic threatening in the first degree -- all of which already have enhanced penalties for the use or possession of a firearm; and

(3) Applies the new provisions retroactively to June 19, 1990, which is the date of the enactment of section 134-6 (Act 195).

Your Committee made two amendments to the bill.

First, your Committee added to the offenses that are excluded from the application of section 134-6, the felony offenses of criminal property damage in the first degree and second degree under section 708-820 and 708-821, respectively, in cases where the firearm is the instrument or means by which the property damage is caused.

Second, the retroactive provision was amended as follows:

(1) The provisions of this bill will apply in prospective cases and pre-indictment or pre-charged cases that would otherwise fall within the scope of section 134-6(a) and (d);

(2) If the case is pending at the time this bill is enacted, then at time of sentencing, the court shall determine whether the prosecution for violation of section 134-6(a) and (d) would have been excluded under the provisions of this bill. If the court so finds, the court shall sentence the person for the underlying felony offense or conduct upon which prosecution for violation of section 134-6(a) and (d) was based. If the person is also being sentenced for the underlying felony offense, no sentence shall be imposed under section 134-6(a) and (d) and such count shall be dismissed; and

(3) If the felony has already been convicted for violation of section 134-6(a) and (d) at the time of this bill's enactment, the court shall determine whether the prosecution for violation of section 134-6(a) and (d) would have been excluded under the provisions of this bill. If the court so finds, the court shall vacate the current sentence and resentence the person for the underlying felony offense or conduct upon which the prosecution for violation of section 134-6(a) and (d) was based. If the person has already been sentenced for the underlying felony offense, the sentence imposed under section 134-6(a) and (d) shall be vacated and the conviction reversed without resentencing.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 3145, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 3145, S.D. 1, H.D. 1, C.D. 1.

Senators Blair, Holt and Koki.
Managers on the part of the Senate.

Representatives Metcalf, Amaral, Oshiro, Takamine and Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 77 on S.B. No. 2258

The purpose of this bill is to provide a mechanism to enforce current no-fault laws by allowing police officers to remove the license plates from a motor vehicle upon discovery of termination of insurance.

Upon further consideration, your Committee has amended the bill by deleting authorization for police officers to remove the license plates of uninsured motor vehicles and inserting language that allows the police to tow and impound the uninsured motor vehicle after a thirty day notice has expired. The motor vehicle shall remain impounded until such time as proof of no-fault insurance is submitted to the county finance director. Your Committee has amended the bill further by providing that an impounded, uninsured motor vehicle shall be considered abandoned and subject to the provisions of Section 290-11, Hawaii Revised Statutes, if not redeemed within thirty days.

Your Committee finds that there is a large number of uninsured motor vehicles on the road, and tougher measures are needed to enforce the State's no-fault laws.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2258, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2258, S.D. 1, H.D. 1, C.D. 1.

Senators Ikeda, Iwase, Matsuura and Koki.
Managers on the part of the Senate.

Representatives Hirono, Amaral, Metcalf, Morihara and Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 78 on S.B. No. 2253

The purpose of this bill is to:

- (1) Provide means for the assessment and evaluation of the education system, lump-sum budgeting, student performance and performance standards, and class size reduction;
- (2) Establish a pilot business manager program;
- (3) Establish and evaluate pilot extended school day and year-round programs; and
- (4) Provide an assessment and inventory of add-on programs to the core education curriculum.

INTRODUCTION

Before beginning the substantive discussion on this measure, your Committee on Conference would like to take this opportunity to make some preliminary observations to:

- (1) Set the tone for this Committee Report and provide some insight into the basic underlying philosophies and policies which have guided your Committee on Conference during this most difficult and challenging conference period; and
- (2) Provide a framework for a comprehensive discussion on the entire "education reform package" which is contained in this measure, as well as other related governance and education-related fiscal measures.

A COMMITMENT TO EDUCATION

There is no other issue before this Legislature that has generated more discussion, more ideas, more debate, and more innovative recommendations than education. While there is diverse opinion in our respective chambers on the specific mechanics of how to improve the quality and effectiveness of public education in this state, Democrats and Republicans alike agree that commitment to public education is commitment to Hawaii's future.

As elected officials, we understand that public investment in education is crucial to our State's economic growth and to the continued vitality of democracy. When education fails, democracy itself fails. We know that a failure to provide Hawaii's people with a decent education is a failure to capitalize on the wealth of imagination and energy that leads to ingenuity.

Public education is absolutely essential if Hawaii is to fully cultivate its immeasurable human resources. Education helps everyone, from the keiki to the kupuna, to develop skills that lead to a meaningful and fulfilling life. Education provides students with tremendous opportunities for greater economic, social, and cultural growth. Education challenges the abilities of all our children. Access to quality education allows our students to go where no person has gone before.

Your Committee strongly supports the concept of educational reform and restructuring, and believes in empowering schools and communities with greater flexibility and autonomy through site based, shared decision-making. Governance restructuring, in and of itself, will not achieve the policy results necessary to improve the quality of the educational system, but it will help to create the proper environment and infrastructure to support changes and improve student learning.

Your Committee took the approach of restructuring the public school system from the school up, rather than from the policy-making level down. Your Committee believes that in order to empower individual schools, the Board of Education, Department of Education, state agencies, the Governor, labor unions, and the Legislature must redefine and modify their relationships and responsibilities to the public school system. In other words, the school and ultimately the student, rather than the bureaucracy, must become the focal point.

THE COMMUNITY'S CHALLENGE

This year, the issue of education has generated widespread community interest and involvement in educational reforms.

It has been almost ten years since the National Commission on Excellence in Education issued its watershed report entitled, "A Nation at Risk." The report chronicles the often dismal performance of the American educational system. It also challenged the American people to rethink the manner in which Americans are educated.

In 1988, the Hawaii Business Roundtable, on its own initiative, commissioned Berman, Weiler and Associates to prepare a report to: (1) identify the strengths and weaknesses of the public education system; and (2) provide recommendations for specific reforms and improvements to the system. The "Berman" report generated widespread discussion.

Thereafter a follow-up report entitled, "The Next Steps: Hard Decisions" was released in 1991. Like its predecessor, this report generated dynamic and diverse discussions.

In reviewing these documents, your Committee on Conference notes several elements which are repeated in all three documents. The documents rally around a common theme of "students first." They propose changes to education governance, fiscal and administrative policies, and the structure of the school year and the school day. Finally, they place the "students first" theme in objective terms.

In 1991, the Legislature established the Task Force on Educational Governance (Task Force) through Act 332, SLH 1991. The Task Force was asked to:

1. Conduct public forums to extract discussion and debate on the issue of governance of Hawaii's public education system; and
2. Examine the roles of various departments, organizations, and agencies of the State, including the Governor, the Legislature, and the Board of Education, that affect Hawaii's public school system.

As part of this effort, the Task Force was instructed to coordinate a public forum process to accept comments and consider recommendations.

The Task Force report, released in March of this year, condensed into one volume: testimony, voluminous data, working papers, and opinion statements. Once again, it should be noted that the major theme that guided the individuals on the Task Force was "students first."

In all of our discussions, the message is the same as the theme of the Task Force--"students first."

It is within this context that your Committee on Conference deliberated, and is proud to set forth a most excellent measure which, when viewed with other educational measures, responds to the public's sentiments with regard to Hawaii's public education system.

GOVERNANCE TASK FORCE RECOMMENDATIONS

The Task Force made fifteen recommendations which your Committee on Conference would like to address individually.

1. Modified Lump-Sum Budgeting.

The concept of empowering the schools requires delegation, trust, and a shift from management control of processes and procedures, to one based on outcome and results. The Task Force proposed that funding for nonpersonnel costs plus average salaries for vacant school positions should be allotted directly to schools. Schools should have the flexibility to expend funds according to priorities established by school/community-based management (SCBM) councils. Funds for training, professional development, and other special programs should be included.

Your Committee on Conference, while in favor of the concept of modified lump-sum budgeting, is aware that a plan to develop and execute new methods of budgeting does not currently exist. Therefore, it is the intent of your Committee that the Department of Education (DOE) first develop a modified lump-sum budgeting plan for direct student/school allocations only. The plan shall contain 1) procedures, processes, and standards of accountability for implementing lump sum budgeting, and 2) proposed legislation to implement the plan in the future.

2. Service Agency Relationship with Other State Agencies.

The Task Force strongly believed that establishing service agency relationships between the DOE and other state agencies providing direct services in support of the schools would address the issues of the lack of accountability and agency response to DOE concerns and needs. In order to establish the service agency relationships between the DOE and other agencies, the funding for school repair and maintenance (R & M), student transportation, and school health services would be included in the DOE budget. DOE would have the ability to purchase services from other state agencies or have the option of going directly to the private sector if those agencies are unable to provide services in a timely and cost-effective manner.

The physical condition of our school facilities has been a growing concern of the community and the Legislature. Recent inspections of school facilities indicated that many need major as well as minor repairs and maintenance. Over the past several years, the Legislature has been earmarking funds especially for the improvement of public school facilities, including the creation of the educational facilities improvement special fund. Despite these concerted efforts, many repair and maintenance projects have yet to be scheduled and completed. This backlog of projects is due, partially, to the centralized program of repairs and maintenance administered by the State.

The Legislature has attempted to address this problem by creating school repairs and maintenance accounts to be administered by each school's principal. H.B. No. 3493 makes an appropriation of \$1,888,000, so that each of the 236 public schools will receive \$8,000 to undertake minor repair and maintenance projects. The Department of Education is requested to submit a report to the Legislature in 1993 on the establishment of the accounts and any repairs which have been made from the accounts.

Your Committee on Conference recognizes the frustration felt by the DOE as well as many individual schools with the current situation, and feels that including school R & M moneys into the DOE budget would allow the department itself to set its own R & M priorities and have the Department of Accounting and General Services implement the R & M projects in accordance with the priorities set forth by the DOE.

3. Selection of School Staffs.

The Task Force firmly felt that each school community needs to be comfortable with, and have confidence in its teachers and administrators. The Task Force recommended that SCBM councils be allowed to select principals, teachers, and classified staff, and provide guidance to councils through a DOE-developed SCBM guidebook.

The Task Force also sought, and your Committee on Conference concurs, that representatives involved in collective bargaining are encouraged to discuss and facilitate decision-making at the school level.

Your Committee on Conference feels that SCBM councils and the school community in general should become involved in the selection of school personnel.

4. Referendum of Structure of Board(s) of Education.

In developing recommended board structure alternatives, the Task Force tried to select the most viable and feasible options. There was no clear sentiment for any one structure, so the Task Force recommended that the Legislature pass a referendum to give the voters a choice of the following three structures for the board(s) of education:

- (1) Elected Local Boards of Education along County boundaries;
- (2) Appointed State Board of Education; and
- (3) Elected State Board of Education.

Remaining cognizant of the need to address the structure issue without setting precedent with a referendum, your Committee on Conference has made a provision for two questions to be submitted to the electorate at the 1992 primary election:

- (1) Allow the governor to appoint the Superintendent of Education; limit the BOE's authority to policy-making only; and

- (2) Allow the governor to appoint the Superintendent of Education and the BOE; limit the BOE's authority to policymaking only.

Unless either question is defeated at the polls, the Superintendent of Education will have control over internal management of the school system.

5. SCBM Congress.

In order to raise the level of discussion on educational matters in the State and the level of parental and community involvement, the Task Force recommended that an SCBM Congress be convened once every two years in odd-numbered years to report on how each school is doing, exchange ideas among schools, and develop a report on the state of education in Hawaii.

Your Committee on Conference believes this recommendation can be implemented without legislation. Your Committee encourages the Department of Education and all parties involved to begin initiating the recommendation when a sufficient number of schools are designated SCBM schools.

6. Environment to Attract and Retain the "Best and Brightest."

The Task Force strongly felt that an environment must be created through incentives and other means that would be conducive to attracting the "best and brightest" into the education profession, and to keep them in the schools.

Your Committee on Conference strongly supports this concept and views it as a vital component of the education reform movement. As stated in the Task Force report, "Quality of education is highly dependent upon the quality of school-level administrators and teachers. If the public school system is to pursue excellence, the system must be able to continually recruit highly qualified and capable individuals to meet ongoing staffing needs in the schools, as well as retain qualified and capable administrators and teachers at the school level." Administrators and teachers must be regarded as professionals and compensated accordingly. Revision of the compensation structure to make administrators and teachers the highest paid individuals in the school system and improvements in working conditions would clearly signify the importance and value of these individuals.

The Department of Education is encouraged to review and develop mechanisms through negotiations and other means to attract the "best and brightest" to enter the profession and remain at the schools.

7. Results-Driven System.

The Task Force in its recommendation stated that, "measurement of achievement is an integral part of accountability. If the ultimate goal is to improve educational achievement, then the public education system must move towards being results-driven. Thus, the development of a broad-based measurement instrument to provide assessments for the public school system as a whole, and to include individual schools and individual students should be instituted. Teacher and administrator performance should be assessed on a periodic basis and should also be broad-based but linked to student achievement."

Your Committee on Conference feels that extending the term of the Commission on Performance Standards to June 30, 1994 will allow for a better and proper assessment. The Commission would consider performance standards that are results-driven, balance direct and indirect measures, inform instruction and are valid, reliable, and cost-effective. The Commission is also requested to submit a model for future means of assessment.

8. Curriculum Review of "Add-on" Programs.

Over the years, a number of programs have been added to the curriculum through legislative and other mandates.

Many of these programs have outlived their usefulness and are competing for valuable instructional time. Because of this the Task Force recommended that an overall review of the educational curriculum should be conducted by a citizen task force established by the Legislature. The DOE should distribute the results of the task force's review to SCBM councils and assist schools in consolidating their requirements.

Your Committee on Conference finds that an inventory of all add-on programs will set a foundation on which to make a determination of the feasibility of add-on programs. Also, your Committee on Conference believes there may be some vocational programs that may be considered add-ons but as the school curriculum evolves, may actually be core curriculum.

9. Tightening Governor's Restriction Authority.

Concerns have been raised regarding the extent of gubernatorial control over educational expenditures. While it is important and necessary that the Governor have sufficient fiscal controls to ensure that expenditures do not exceed revenues, the Task Force felt that the budget law should be amended to require the Governor to issue a public declaration whenever budget restrictions are imposed. The declaration should state the purpose and rationale for each restriction.

In addition, the Governor should be limited to imposing restrictions only for anticipated revenue shortfalls and only on a percentage basis.

Your Committee on Conference agrees with the recommendation and has included a provision in this measure that would require the director of finance to modify or amend any previous allotment only after a public declaration. There would also be a notification requirement when the Governor makes a redetermination of an allotment.

10. Minimum of 30% of General Fund Budget Dedicated for Education.

Education is the cornerstone of our democratic society, and as such, public education should be viewed as an investment in the future of Hawaii. The Task Force recommended the dedication of resources in order to signify our commitment to supporting public education. As such, the State Constitution should be amended to require that by the year 2000, a minimum of 30% of general fund appropriations be appropriated for operations of the public school system.

Since the year 2000 has been targeted for major financial reforms, your Committee on Conference strongly feels that attention must be directed toward the internal restructuring of public education with a focus on attending to resolving the issues relating to governance. Your Committee would also like to have existing moneys efficiently and effectively spent.

11. Delegation of Personnel Functions.

The Task Force found that filling noncertificated school personnel vacancies on a timely basis has been a chronic problem. The delegation of the recruitment and examination functions from the Department of Personnel Services (DPS) to the DOE would remove an unnecessary layer from the hiring process, and fix responsibility and authority with the DOE.

Your Committee on Conference supports the current efforts of a DPS Task Force in conducting an active examination of how to implement the above recommendations for all departments and agencies. The DPS maintains a commitment to service and responsiveness in meeting the needs of the system.

12. Review of Laws and Regulations Applicable to the DOE.

There currently exists a myriad of laws, rules, and policies governing the operations of the DOE, which creates a complex and confusing environment under which educators must work. If we affirm the vision of school empowerment, then many of these laws, rules, and policies must be modified or repealed in order to allow schools to function more autonomously.

To initially address this problem, your Committee on Conference has requested that the Auditor conduct a study of chapter 26, Hawaii Revised Statutes, governing the executive departments, and chapter 37, Hawaii Revised Statutes, governing state budget policies, as they relate to the operations of the DOE. It is clear from the voluminous public testimony on school governance that issues related to the overlapping of authority and responsibilities of various state agencies and the policies related to the state budget have added to the bureaucracy of the school system.

13. Two-Thirds Vote for Education-Related Legislation.

Raising the requirement for passage of laws and budget "provisos" relating to education, would serve to shift legislative focus on education to general, statewide policy issues. The Task Force has thus recommended that the requirement for passage of laws and budget "provisos" relating to education by the Legislature be increased from a simple majority to a two-thirds vote.

While such a requirement may limit the Legislature's ability to micromanage education, it may also prohibit the enactment of good legislation. The Legislature has attempted to address the micromanagement issue through mandating the DOE to develop a plan for lump-sum budgeting by the 1993 session.

14. Multi-Path Curriculum to Enhance Learning Environment.

The Task Force has found that a multi-path curriculum with meaningful educational alternatives would help enhance the learning environment by better gearing curriculum to meet student needs and expectations. Students should be given a choice of paths and have the flexibility to change paths during the course of their education.

This recommendation was not addressed in this measure because the Board of Education currently has the authority to implement multi-path curriculum and your Committee would like to encourage the board to restructure the schools to include multi-path curriculum.

15. Special Session to Facilitate July 1, 1994 Implementation.

In order to properly address the Task Force's recommendations, the Task Force, as one of its recommendations, called for a special session of the Legislature in July 1992.

Your Committee feels that much thought, time and effort has been put into the content of the measures that specifically address the Task Force recommendations and based on that it is fair to say that we are in a "very special and excellent session."

SUBSTANTIVE REVISIONS

For the purpose of simplicity, your Committee has deleted the entire contents of this bill and inserted the following provisions:

1. An introductory section;
2. Requiring schools to prioritize their school repair and maintenance projects;

3. Requiring the governor to develop incentives which would encourage and allow the private sector to make contributions towards the education system;
4. Permitting school/community-based management councils to become involved in the selection and evaluation of school personnel;
5. Encouraging reform and innovation in collective bargaining negotiation between the State and the unions;
6. Extending the term of the commission on performance standards and requiring the commission to consider performance standards that are results-driven and to develop a model for future assessment on a school-by-school basis;
7. Conducting a review of chapters 26 and 37 as they relate to education;
8. Conducting an inventory of all "add-on" programs or activities that are related to education and are currently competing with the ongoing basic skills program in the curriculum of Hawaii's public school system;
9. Endorsing the concepts of project Ke Au Hou and requiring the implementation of a business manager program at the secondary school level; and
10. Requiring the department of education to evaluate and implement the recommendations of the Task Force on Educational Governance where possible.

FURTHER DISCUSSIONS

Your Committee would like to note that the provision on class size reduction was removed from the bill because funding and a proviso for class size reduction was inserted into the Supplemental Budget.

Your Committee on Conference would like to acknowledge and thank the Hawaii Business Roundtable for the time and effort it has contributed to educational reform. Your Committee also expresses its sincere appreciation to the members of the Hawaii Task Force on Educational Governance for its exemplary efforts and careful consideration of the myriad of issues relating to educational governance, and to all of the people who testified at hearings and provided valuable input regarding educational reform.

The Report of the Education Commission of the States.

The Education Commission of the States recently published a "Report to the State Superintendent" on the reform and restructuring of public education in Hawaii. The Commission noted that Hawaii's reform encompasses some key distinctions unique to education reform initiatives occurring nationwide: "(1) the explicit shift to a focus on student outcomes (what students should know and be able to do) and (2) a move to community-based decisionmaking and decentralized school governance, providing increased latitude for individual schools in the areas of curriculum, instructional strategies and student assessment, as well as in use of instructional time, development of professional staff, use of school resources, and assessment of individual student needs."

In its assessment of Hawaii's reform initiative, the Commission notes that the State has the potential for leading the nation in setting forth a framework for educational reform that may become a national model. In moving toward reform, the Commission also notes some key issues of concern with which your Committee on Conference concurs and has attempted to incorporate into the revisions of the bill:

1. The need to create a comprehensive "road map" of the reform/restructuring efforts to ensure the integration of all of the initiatives;
2. The need to plan for a "Leadership Summit" to gauge the process to date and move toward a more coherent, systematic strategy;
3. The need to have the Performance Standards Commission set forth a strong, clear educational focus to the state's reform/restructuring initiative with respect to what students should know and be able to do and what characteristics of schools and system support the desired outcome;
4. The need to support the intent of Project Ke Au Hou and make a concerted effort to focus on aligning statutes and policies to ensure consistency in supporting decentralization and increasing flexibility and autonomy at the school level; and
5. The need to continue to build collaborative ties with key community partners in educational improvement and other agencies serving students.

Your Committee on Conference fully realizes that the reform of public education is not an event but rather a long term process and that the efforts of the Sixteenth Legislature mark the beginning of a long term process. Your Committee on Conference fully expects that there will be a continuance of educational reform efforts in future sessions.

Furthermore, your Committee on Conference is hopeful that the Governor will take the lead in convening an "Education Summit" to review the progress of reform efforts and to plan the next steps and future direction of continuing reforms.

Project Ke Au Hou.

Project Ke Au Hou ("A New Era") is just as its name suggests; the project marks the beginning of the process of "Restructuring the Public School System for Our Children's Future". Your Committee on Conference recognizes the need to not only support, but to go beyond the symbolism inherent in Project Ke Au Hou. The results of Project Ke Au Hou will serve to institutionalize the efforts to decentralize decisionmaking and promote school/community-based management.

The concepts undergirding Project Ke Au Hou are in synchrony with and reflective of the intent of your Committee on Conference, it is important that they be incorporated into this report:

1. Promotion of greater decision-making independence at the school level;
2. Reliance on the collaboration of the school administrator, teachers, support staff, parents, students, and citizens of the community in making decisions;
3. Belief in the concept that better educational results can be achieved when people responsible for implementing decisions are directly involved; and
4. Recognition of the importance of a community of people to restructure schools in ways that will lead to effective teaching and improved student performance.

Class size reduction.

The legislature recognizes that the prosperity, growth, and overall well-being of the State lies in the ability of its public school system to prepare Hawaii's students for the personal and work challenges of the future. To this end, the legislature is committed to efforts that ensure and support a conducive and nurturing educational environment for students to excel in.

In 1987, the legislature appropriated moneys to reduce class sizes in kindergarten and grade one. This effort was intended to enhance student learning and achievement in Hawaii's public schools. Lowering the student-teacher ratio was, and still is, regarded as one of many approaches to improving academic achievement by increasing individualized attention from the teacher to student, enhancing communication between the student and teacher, and better addressing individual student interests and needs.

However, the legislature notes that efforts to reduce class size must be comprehensive, not piecemeal. A comprehensive plan of action that is flexible and attuned to the overall school environment, educational needs, and school community concerns, must be initiated to effectuate any significant impact on the quality of education in the State. Furthermore, class size reduction must be a long-range option that takes into account the individual needs and characteristics of each school as well as the unique composition of each classroom. Comprehensive and periodic assessment of the effects of lowered class size ratios is imperative to the progress of this statewide initiative. Academic achievement is contingent on an exhaustive assessment of lower class size ratios and on other educational programs.

It is widely acknowledged that each school will respond to and accommodate class size reduction in different ways, depending on student enrollment and composition, and on resources, facilities, educational climate, and other variables affecting the school. The effects of reduced class sizes will be felt throughout all aspects of the school--on school administration, operations, and organization--as the school looks to available resources to provide additional teachers and facilities to accommodate students.

For class size reduction to improve student learning and outcomes, other educational issues must be addressed simultaneously. Facility shortages, student population fluctuations, limited resources, school structure, and class composition are critical variables that can help or hinder the positive effects of class size reduction efforts. Class size reduction must also work hand-in-hand with other variables--such as grade level, academic development, instructional and teaching methods, teacher skills, and curricula--to have a positive impact on the quality of education.

Teachers must also modify their teaching techniques, approach, and instruction accordingly for lowered class size ratios to be effective. Academic achievement does not necessarily improve with the reduction of student-teacher ratios, unless teaching styles and other variables are modified to adapt to new classroom structures.

In short, the effects of class size reduction cannot be isolated from other variables. Class size reduction, in and of itself, does not guarantee academic success, but complements other efforts to improve educational excellence and effectiveness in the public school system.

CONCLUSION

In conclusion, your Committee on Conference would like to reiterate that this measure in and of itself does not represent the Legislature's "educational package." This measure should be viewed within the collaborative context of H.B. No. 2123, H.D. 1, S.D. 1, C.D. 1, and other educational measures.

This package of measures sets into motion a major wave of education reform in an effort to create our common goal:

To provide for an educational system which encompasses the principle of lifelong learning that helps each individual realize his or her fullest potential as a productive citizen and contributing member of society, and to assure the best quality of life for all of Hawaii's people.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2253, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2253, S.D. 2, H.D. 2, C.D. 1.

Senators Yamasaki, Blair, Hagino, Holt, Iwase, Kobayashi, B., McCartney, Mizuguchi and George.
Managers on the part of the Senate.

Representatives Taniguchi, Bunda, Kawakami, Metcalf, Souki, Takamine, Tam and Marumoto.
Managers on the part of the House.

Conf. Com. Rep. No. 79 on S.B. No. 3432

The purpose of this bill is to authorize the Department of Education (DOE) to accept donations of equipment or fixtures which meet educational purposes. This bill also designates which state agency has the responsibility to repair and maintain such donated equipment or fixtures.

Your Committee finds that the DOE's budget does not allow it to completely meet the needs and demands of students. Because the department is not authorized to accept donated equipment and fixtures, many useful items are often refused. It is the intent of this bill to allow Hawaii's public schools to accept donations of equipment and fixtures that will provide public school students with modern facilities and enhance the learning environment.

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

- (1) Deleting the provision that donated fixtures must be new; and
- (2) Deleting the provision that a school principal may accept or solicit donations on behalf of the DOE, and may consult with parents about the desirability of a donation.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 3432, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 3432, S.D. 1, H.D. 2, C.D. 1.

Senators McCartney, Kobayashi, B., and Reed.
Managers on the part of the Senate.

Senator Reed did not sign the report.

Representatives Tam, Metcalf, Souki, Amaral, Kawakami, Oshiro, Santiago and Marumoto.
Managers on the part of the House.

Conf. Com. Rep. No. 80 on S.B. No. 3367

The purpose of this bill is to designate the department of human services as the lead agency for the planning and provision of services related to domestic violence and sexual assault and to provide that any appropriations made to the department of health for such services be transferred to the department of human services effective July 1, 1992.

Your Committee amended the bill by incorporating certain provisions from both the Senate's version of the bill (S.B. No. 3367, S.D.1) and the House of Representative's version (S.B. No. 3367, H.D. 2); namely:

- (1) Amended the purpose clause;
- (2) Designated the Department of Human Services as the lead agency for all sexual assault and domestic violence programs;
- (3) Defined the terms "domestic violence" and "sexual assault" to exclude sexual abuse of a child by family and child abuse, as a limitation of the scope of the Department's duties under this bill;
- (4) Required the Department of Human Services to contract with a master contractor to coordinate the services of private agencies that provide domestic violence and sexual assault services, coordinate short- and long-term planning for such services, facilitate coordination of services among public and private agencies and assist the Department;
- (5) Required the Department to establish an appeals process for unsuccessful bidders who want a reconsideration of a decision made by the master contractor;
- (6) Provided that, if a satisfactory resolution is not reached through appeal, the appellant or the Department may seek resolution through the Neighborhood Justice Center; and
- (7) Required that any monies appropriated for domestic violence or sexual assault programs assigned to executive departments and not expended, encumbered, or allocated shall be transferred to the Department of Human Services not later than January 1, 1993.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 3367, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 3367, S.D. 1, H.D. 2, C.D. 1.

Senators Blair, McMurdo and Koki.
Managers on the part of the Senate.

Representatives Tom, Metcalf, Say, Amaral, Chun, Duldulao, Kawakami and Marumoto.
Managers on the part of the House.

Representative Marumoto did not sign the report.

Conf. Com. Rep. No. 81 on S.B. No. 1528

The purpose of this bill is to amend sections 712-1200 and 712-1206, Hawaii Revised Statutes, relating to prostitution and loitering for prostitution. More specifically, the bill:

- (1) Allows into evidence, a written statement signed, adopted or approved by the declarant, describing or explaining a communication regarding an act of prostitution, made immediately thereafter, whether or not the declarant is available as a witness; provided that the court determines that:
 - (A) The statement is more probative on the point for which it is offered than any other evidence which the proponent can procure through reasonable efforts;
 - (B) The general purposes of the rules of evidence and the interests of justice will be best served by the admission of the statement as evidence; and
 - (C) The prosecution properly notifies the defendant and the defendant's attorney;
- (2) Increases the fine for prostitution from \$500 to \$1,000 for the first offense; and
- (3) Increases the fine to \$1,000 and authorizes the court to order community service for any subsequent offense.

Your Committee amended the bill by:

- (1) Deleting the requirement in sections 712-1200 and 712-1206 that the written statement be more probative on the point for which it is offered as evidence than any other evidence which the proponent can procure through reasonable efforts;
- (2) Reinstating the \$500 fine for the first offense for prostitution; and
- (3) Reinserting the amendments to section 710-1024, Hawaii Revised Statutes, pertaining to the offense of bail jumping, that were proposed in S.B. No. 1528, as originally introduced.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1528, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1528, H.D. 1, C.D. 1.

Senators Blair, Matsuura and Reed.
Managers on the part of the Senate.

Representatives Metcalf, Amaral, Hagino, Hiraki and Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 82 on S.B. No. 2432

The purpose of this bill is to create a new framework for regulation of the pawnbroker industry.

Your Committee finds that the current law governing pawnbrokers has not been amended since 1955, is out of date, and may even have been out of date in 1955.

Specifically, the bill:

- (1) Adds seven new definitions to Section 445-131, Hawaii Revised Statutes;
- (2) Reduces the interest rate chargeable by pawnbrokers;
- (3) Provides for written pawn agreements and specifies their contents;
- (4) Requires finance charge disclosures similar to those required by the federal Truth-in-Lending Act;
- (5) Limits pawn transactions to one month in duration with the possibility of month-to-month extensions;
- (6) Establishes a 30-day holding period for redemption of pawned goods;
- (7) Establishes a maximum finance charge of twenty percent per month;
- (8) Increases the penalties for violations of the pawnbroker law;
- (9) Changes the sunset review of pawnbrokers to December 31, 1995; and

(10) Repeals Section 445-134.

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

- (1) Providing that the extension of a pawn transaction's maturity date may only be done twice;
- (2) Deleting from Section 445-135 the proposed phrase "If the treasurer grants licenses to engage in the business of pawnbroker," to clarify the intent that the counties must license pawnbrokers; and
- (3) Deleting the amendment to Section 26H-4 that would have included pawnbrokers in the Auditor's 1995 sunset review.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2432, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2432, S.D. 1, H.D. 1, C.D. 1.

Senators Ikeda, Crozier, Iwase and Koki.
Managers on the part of the Senate.

Representatives Hirono, Metcalf, Amaral, Hiraki, Morihara and Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 83 on S.B. No. 1843

The history of this bill over the past two Legislative sessions is set forth in three standing committee reports: SSCR No. 822, SSCR No. 1788 and HSCR No. 1261-92. As received by your Committee on Conference, the purposes of this bill are to:

- (1) Define a class of semiautomatic pistols as "assault pistols" if they have a detachable magazine and two or more of six listed characteristics;
- (2) Add a definition of the term "semiautomatic" to Chapter 134;
- (3) Provide that the newly defined class of assault pistols which are lawfully possessed prior to July 1, 1992 shall be registered by January 1, 1993 and may not be brought into the State after July 1, 1992;
- (4) Prohibit the sale or transfer of an assault pistol, after July 1, 1992, to anyone except a licensed dealer or the chief of police or by bequest or intestate succession. If transfer is made by bequest or intestate succession the recipient must, within ninety days, transfer the weapon to a licensed firearm dealer or to the chief of police or remove it from the State or render it inoperable;
- (5) Prohibit detachable pistol magazines with a capacity in excess of ten rounds;
- (6) Prescribe that the possession or acquisition of an assault pistol, except as authorized by law, shall be a class C felony which shall be punished by imprisonment for five years without the possibility of probation;
- (7) Prescribe that the possession of a prohibited detachable pistol magazine shall be a class C felony if it is inserted into a pistol, otherwise it shall be a misdemeanor.

Your Conferees accepted the fundamental structure of the House Draft, focusing on pistols to the exclusion of carbines, rifles, and shotguns, except that non-pistol firearms may be covered by the provisions in the bill limiting the capacity of detachable magazines capable of use with a pistol. This is due to the fact that some magazines are designed for use in both pistols, and rifles or carbines. In doing so, the Conferees were not guided by and did not apply the interpretation of Article I, Section 17 which was reflected in the Senate's position. In fact, your Conferees' specifically decline to make a finding that the weapons which are covered by this bill are or are not "excessively lethal" as that term is used in Committee of the Whole Report No. 5, from Volume 1 of the proceedings of the 1950 Constitutional Convention.

Your Conferees know that the battle between advocates of strict gun control and proponents of an undiluted right to keep and bear arms has not been settled by this conference draft. In fact, a constitutionally based challenge to this bill is a virtual certainty. Frankly, such a challenge is welcomed as an opportunity for the Legislature to be instructed on the extent to which our discretion is circumscribed by Article I, Section 17. Disagreement about the applicability and import of the constitutional language made this Legislature's task much more difficult. It is hoped that the anticipated litigation will assure that the jurisprudential gap is filled before this issue is revisited by a future Legislature.

Your Conferees modified the House's draft in the following particulars:

- (1) The second of the six characteristics was narrowed by the deletion of the words "recoil compensator." Recoil compensators are customarily used in certain specialized shooting competitions. Their inclusion with silencers and flash suppressors is inappropriate, since they increase the visual and aural signature of the firearm.
- (2) The third characteristic, a barrel shroud, has been clarified by adding limiting language.
- (3) The fourth characteristic is modified by specifying that it is the "manufactured" weight. This clarification is necessary because there are many accessories which may be added to a pistol that do not warrant reclassifying the pistol as an assault pistol.

- (4) Section 2 of the House's draft was deleted, since pistol registration is already a requirement as a prerequisite to lawful ownership. A conforming deletion was made to the amendments proposed for section 134-8, Hawaii Revised Statutes.
- (5) The Attorney General is required, prior to the effective date of the Act, to publicize and make available a list of firearms which the chiefs of police have determined meet the definition of an assault pistol.
- (6) The requirement concerning the modification of magazines to hold ten or fewer cartridges has been clarified by replacing the requirement for permanence with the requirement that they not be readily restorable to the larger capacity.
- (7) The limitation on the size of detachable ammunition magazines was amended to "grandfather" existing magazines with a capacity of less than twenty cartridges for a period of one year, if they are owned by the owners of registered pistols. The penalty provisions, therefore, will apply during that time only to persons who have a detachable magazine of greater than nineteen round capacity or who are not the legal owner of a registered firearm into which the magazine will fit. It should be noted that, in order to have this grandfather effect apply, the owners of the carbines and rifles with magazines whose capacity is greater than ten rounds will be required to register their firearm, even if registration is not otherwise required. This grandfather clause will permit owners of pistols with a magazine capacity between eleven and nineteen rounds to modify, or cause to be modified, their magazines, and will also permit firearms manufacturers and aftermarket suppliers to meet the demand for magazines with a maximum capacity of ten rounds.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1843, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1843, S.D. 2, H.D. 1, C.D. 1.

Senators Blair, Holt and Koki.
Managers on the part of the Senate.

Representatives Metcalf, Amaral, Oshiro, Takamine and Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 84 on S.B. No. 2296

The purpose of this bill is to authorize the Department of Commerce and Consumer Affairs to adopt rules to promote and enforce greater accuracy in motor vehicle advertising by limiting the types of representations that can legally be made.

Your Committee finds that advertisements for new motor vehicle sales often contain statements and terms that cannot readily be understood by consumers. These statements and terms may give the consumer the impression of understanding when in fact only those with inside knowledge of the auto industry know what is actually being said.

Upon further consideration, your Committee has amended the bill by inserting language similar to that contained in the Senate Draft 1 (S.D. 1) version, which statutorily prohibits the use of particular terms in motor vehicle advertising.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2296, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2296, S.D. 1, H.D. 1, C.D. 1.

Senators Ikeda, Iwase and Koki.
Managers on the part of the Senate.

Representatives Hirono, Morihara, Oshiro, Takamine and Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 85 on S.B. No. 1293

The purpose of this bill is to earmark up to forty percent of the earnings of all inmates for quarterly deposit into the Criminal Injuries Compensation Fund.

The bill also clarifies the authority of the Fund to receive these payments and specifies that the deductions shall in no way relate to claims filed for compensation pursuant to Chapter 351, Hawaii Revised Statutes. The Director of Public Safety is required to submit timely annual reports on the deposits to the Legislature and the Criminal Injuries Compensation Commission.

Current law provides for deductions of up to forty percent from the earnings of any incarcerated perpetrator of a violent crime to reimburse the Fund for compensation paid to the inmate's victim. Under this bill, deductions and payments would be automatically applied across the board regardless of the nature of the crime or whether there is a compensable claim.

Your Committee finds that there is always a victim of violent crime and that perpetrators of such crimes should contribute to the compensation of victims of violence in general. Your Committee also finds that mandatory deductions will qualify the Department of Public Safety for certification under the federal Prison Industries Enhancement Program without which neither the Department nor its joint venture partners may engage in business involving interstate commerce.

Your Committee has amended this bill by providing for deductions of between five and twenty percent from the earnings of inmates convicted of any of the violent crimes listed in Section 351-32. Again, the deductions will not relate to specific compensation claims, but neither will they be taken from the earnings of inmates incarcerated for non-violent crimes that have no compensable victim.

Your Committee has also made some technical changes that have no substantive effect.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1293, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1293, S.D. 2, H.D. 2, C.D. 1.

Senators Yamasaki, Iwase, Kobayashi, A., Mizuguchi and Koki.
Managers on the part of the Senate.

Representatives Metcalf, Souki, Amaral, Cachola, Kanoho, Say, Thompson III and Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 86 on S.B. No. 2824

The purpose of this bill is to provide reimbursement to the counties for actual costs and administrative costs of motor vehicle plates issued to the State.

Upon further consideration your Committee has deleted reimbursement for administrative costs from the bill.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2824, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2824, S.D. 2, H.D. 1, C.D. 1.

Senators Yamasaki, Aki, Cobb, Fernandes Salling and George.
Managers on the part of the Senate.

Representatives Metcalf, Hashimoto, Oshiro, Say, Amaral and Anderson.
Managers on the part of the House.

Conf. Com. Rep. No. 87 on S.B. No. 2918

The purpose of this bill is to clarify Chapter 251, Hawaii Revised Statutes, relating to the rental motor vehicle and tour vehicle surcharge tax, by amending the definition of "rental motor vehicle" or "vehicle" to:

- (1) Include vehicles designed to carry seventeen passengers or fewer that are rented for a period of six months or less; and
- (2) Exclude certain types of trucks, truck-tractors, tractor-semitrailer combinations, truck-trailer combinations, or cargo vans.

After further consideration your Committee has amended the bill by changing the effective date from upon approval to July 1, 1992, and by correcting a typographical error.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2918, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2918, S.D. 1, H.D. 1, C.D. 1.

Senators Yamasaki, Aki, Fernandes Salling, Nakasato and George.
Managers on the part of the Senate.

Representatives Oshiro, Hirono, Say, Baker, Morihara, Tajiri and Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 88 on S.B. No. 2714

The purpose of this bill is to amend Chapter 236, Hawaii Revised Statutes, to make it compatible with current medical practices for Hansen's disease, and to repeal sections that are no longer applicable.

Currently, the Hawaii Revised Statutes provide that the patient residents of Kalaupapa shall be accorded adequate health care and other services for the remainder of their lives. However, former residents who have chosen to leave Kalaupapa settlement to live closer to friends and family are forced to give up the benefits guaranteed to those who remain at the settlement. The bill attempts to address this problem by amending the law so that Hansen's disease patients who were once segregated by order of the Department of Health and who now reside within the State but live outside Kalaupapa and Hale Mohalu, will receive medical treatment and services on an equal basis as those who remain at the settlement or the institution.

At the present time, the Hawaii Revised Statutes also prohibit anyone from taking photographs of any patient confined at any hospital or place for the care and treatment of individuals with Hansen's disease without the patient's written permission. The problem that currently exists is that there is no provision of penalty for violations of the ban. Thus, the law is broken frequently at Kalaupapa and the sheriff of the County of Kalawao has no ability to enforce the statute. The bill responds to this problem and updates the statute by limiting the prohibition to facilities maintained by the department

of health, broadens the definition of picture taking to include current technologies, and provides that violators may be fined up to \$1000 per an incident.

Your Committee has amended this bill by making technical revisions for the purpose of conformity with drafting style.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2714, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2714, S.D. 2, H.D. 2, C.D. 1.

Senators Yamasaki, Kobayashi, B., Levin, McMurdo and Koki.
Managers on the part of the Senate.

Representatives Say, Amaral, Baker, Duldulao, Metcalf, Shon and Anderson.
Managers on the part of the House.

Conf. Com. Rep. No. 89 on S.C.R. No. 70

The purpose of this Concurrent Resolution is to grant prior legislative approval for the Board of Land and Natural Resources to grant an easement over or lease up to five acres of submerged land and other acreage at Ewa to Haseko (Hawaii), Inc. to develop a marina.

Authority is granted pursuant to Section 171-53, Hawaii Revised Statutes, but the Board will still have to obtain the prior approval of the Governor and meet CDUA and other requirements before the lease may be executed. If the Board fails to execute the lease by July 1, 1997, the authorization would be rescinded.

Your Committee finds that there is a compelling need for more berthing space for recreational boaters and that a facility at Ewa would be in the public interest.

After further consideration, your Committee has amended this Concurrent Resolution by deleting the drop dead date for the authorization.

Your Committee on Conference concurs with the intent and purpose of S.C.R. No. 70, S.D. 1, H.D. 1, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 70, S.D. 1, H.D. 1, C.D. 1.

Senators Holt, Ikeda and George.
Managers on the part of the Senate.

Representatives Stegmaier, Oshiro, Baker, Thompson III and Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 90 on S.B. No. 3247

The purpose of this bill is to appropriate funds for the development of a self-help affordable housing subdivision in Hana, Maui.

Your Committee finds that Hana is the most economically depressed area within the county of Maui. The rate of personal income for residents in the area is the lowest in the county and housing costs are the highest.

Your Committee upon further consideration has amended the bill to increase the amount appropriated to a total amount of \$350,000. Your Committee has also inserted into Section 1 language formerly contained in Section 2 and made additional amendments for the purposes of clarity and style which do not affect the substance of this bill. Your Committee has also amended this bill by adding a new section stating the reasons why and the amount and rate by which the appropriation contained in this bill exceeds the state spending limit to comply with constitutional and statutory requirements.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 3247, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 3247, S.D. 2, H.D. 2, C.D. 1.

Senators Yamasaki, Aki, Crozier, Kobayashi, B., and George.
Managers on the part of the Senate.

Representatives Isbell, Souki, Arakaki, Chang, Kawakami, Shon, Yonamine and Tatibouet.
Managers on the part of the House.

Representative Tatibouet did not sign the report.

Conf. Com. Rep. No. 91 on S.B. No. 2770

The purpose of this bill is to prohibit any person from performing underground storage tank work unless acting under the direct supervision of a geologist or a licensed engineer or architect who agrees in writing to be accountable for the work. After June 30, 1994, the geologists, engineers, and architects providing supervision will have to be registered, licensed, or otherwise regulated pursuant to rules that the Department of Health is required to adopt by that date.

Upon further consideration, your Committee on Conference has amended the bill by deleting SECTION 2, dealing with the designation of those performing underground storage tank work as specialty contractors under Chapter 444, Hawaii Revised Statutes, as these individuals are already treated as such by the Contractors License Board.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2770, S.D. 1, H.D. 1, C.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2770, S.D. 1, H.D. 1, C.D. 2.

Senators Ikeda, Chang, Iwase and Koki.
Managers on the part of the Senate.

Representatives Hirono, Metcalf, Amaral, Morihara, Oshiro and Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 92 on S.B. No. 2758

The purpose of this bill is to make an appropriation to the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs for the payment of consultant fees in the various utility and transportation cases pending, or to be filed, with the Public Utilities Commission and other state and federal agencies.

Your Committee has amended the bill by inserting the amount of \$125,000 as the appropriated amount and by adding a new section stating the reasons why and the amount and rate by which the appropriation contained in this bill exceeds the state spending limit to comply with constitutional and statutory requirements.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2758, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2758, S.D. 2, H.D. 2, C.D. 1.

Senators Yamasaki, Aki, Ikeda, Iwase and Koki.
Managers on the part of the Senate.

Representatives Hirono, Say, Hiraki, Kanoho, Morihara, Tajiri and Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 93 on S.B. No. 2258

The purpose of this bill is to provide a mechanism to enforce current no-fault laws by allowing police officers to remove the license plates from a motor vehicle upon discovery of termination of insurance.

The bill allows the police to tow and impound the uninsured motor vehicle after a thirty day notice has expired, and the motor vehicle shall remain impounded until such time as proof of no-fault insurance is submitted to the county finance director. It also provides that an impounded, uninsured motor vehicle shall be considered abandoned and subject to the provisions of Section 290-11, Hawaii Revised Statutes, if not redeemed within thirty days.

Your Committee has amended the bill to correct typographical errors at page 2, lines 11 and 18.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2258, S.D. 1, H.D. 1, C.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2258, S.D. 1, H.D. 1, C.D. 2.

Senators Ikeda, Iwase, Matsuura and Koki.
Managers on the part of the Senate.

Senator Koki did not sign the report.

Representatives Hirono, Amaral, Metcalf, Morihara and Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 94 on S.B. No. 2288

The purpose of this bill is to appropriate monies to the Department of the Attorney General to purchase supplies and conduct blood and saliva testing of criminals and create the data bank for its recordation.

Your Committee amended this bill by inserting the percentage by which the appropriation exceeds the state general fund expenditure ceiling.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2288, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2288, S.D. 1, H.D. 1, C.D. 1.

Senators Yamasaki, Blair, Hagino, Holt and George.
Managers on the part of the Senate.

Representatives Metcalf, Souki, Amaral, Baker, Duldulao, Hiraki, Morihara and Wad.
Managers on the part of the House.

Representative Morihara did not sign the report.

Conf. Com. Rep. No. 95 on S.B. No. 2894

The purpose of this bill is to enable maximum utilization of the Employees' Retirement System by judges and internal affairs investigators, corrections officers, and narcotics enforcement investigators employed in the Department of Public Safety.

Specifically, the bill allows until July 1, 1993 for retired judges to buy back into the Retirement System and continue serving as Class A members, and protects the 2.5 percent retirement rate for that portion of an employee's career served as an internal affairs or narcotics enforcement investigator or corrections officer if the person retires after a promotion to a position for which the rate is the normal 2 percent.

Currently, judges cannot accrue more than 75 percent of their average final compensation; however, some wish to continue serving. This bill will provide an incentive for them to remain in service.

Internal affairs investigators currently accrue benefits at the normal rate of 2 percent a year. This bill would place them in the System at the 2.5 percent rate as class A members.

Your Committee has amended this bill by deleting internal affairs officers from class A membership at 2.5 percent but allowing corrections officers and narcotics enforcement investigators to keep their higher rate if they subsequently retire as internal affairs investigators. This provides an incentive for corrections or narcotics officers to move into the specialized field of internal affairs which, although not technically a promotion, is a position that requires dedication and experience of the kind that career law enforcement officers possess.

In addition, your Committee has made some nonsubstantive technical changes for the purpose of clarity.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2894, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2894, S.D. 1, H.D. 2, C.D. 1.

Senators Yamasaki, Iwase, Kobayashi, A., Mizuguchi and Koki.
Managers on the part of the Senate.

Representatives Metcalf, Souki, Takamine, Tajiri and Yonamine.
Managers on the part of the House.

Conf. Com. Rep. No. 96 on S.B. No. 3371

The purpose of this bill is to establish a statewide integrated program for treatment of sex offenders to be implemented jointly by the Department of Public Safety, the Judiciary, the Hawaii Paroling Authority, and any other agency that may be assigned sex offender oversight responsibilities.

The program will develop a master plan and integrated system of treatment services and programs, identify all offenders in custody who would benefit from treatment, and do any and all other things necessary to provide a cohesive, coordinated approach to mitigating the problem and rehabilitating offenders. A coordinating body will be established to ensure compliance with the master plan.

Your Committee finds that incarceration has minimal impact on sex offender rehabilitation; however, this program and its master plan provide a different kind of approach based on uniform and communal assumptions that should produce beneficial results heretofore unachievable.

Your Committee has amended this bill by deleting reference to the Department of Labor and Industrial Relations as an agency having oversight of sex offenders, and by deleting the appropriation.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 3371, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 3371, H.D. 2, C.D. 1.

Senators Yamasaki, Iwase, Kobayashi, A., Mizuguchi and George.
Managers on the part of the Senate.

Representatives Tom, Metcalf, Say, Alcon, Amaral, Chang, Chun and Tatibouet.
Managers on the part of the House.

Conf. Com. Rep. No. 97 on S.B. No. 2964

The purpose of this bill is to provide initial funding for efforts to establish support and assistance to families, professionals, and persons with autism via the creation of a resource and technical assistance project.

Your Committee finds that current services in Hawaii frequently do not meet the unique needs of persons with autism, and effective intervention and appropriate support to families is necessary to prevent persons with autism from being subject to costly, long-term or lifetime institutionalization.

Your Committee has amended this bill by adding a new section stating the reasons why, and the amount and rate by which, the appropriation contained in this bill exceeds the state spending limit to comply with constitutional and statutory requirements, and making technical nonsubstantive changes.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2964, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2964, S.D. 1, H.D. 1, C.D. 1.

Senators Yamasaki, Kobayashi, B., McCartney, Solomon and George.
Managers on the part of the Senate.

Representatives Shon, Souki, Chun, Duldulao, Ige, M., Tom, Yonamine and Tatibouet.
Managers on the part of the House.

Conf. Com. Rep. No. 98 on S.B. No. 3004

The purpose of this bill is to appropriate funds for the removal of hazardous materials from public schools by the Department of Health.

Your Committee finds that the removal of all hazardous materials from public schools in the State is in the interest of the health, safety, and welfare of the staff, students, and community who use the facilities, and should be done in an expeditious manner.

The Department of Health provided information to your Committee indicating that the designation of the Department as the agency responsible for removal of hazardous waste is in direct conflict with the Department's responsibility to regulate the storage and disposal of hazardous waste. The Department of Education is not exempt from such regulations, therefore it is incumbent upon the Department of Health to enforce compliance by the Department of Education.

Upon further consideration, your Committee has amended this bill by designating the Department of Education to remove hazardous materials from the schools. The Department of Education may obtain consultant services and technical assistance for the safe and efficient removal of hazardous materials from the schools. The Department of Health shall provide assistance to the Department of Education upon request.

Your Committee has also amended this bill by adding a new section stating the reasons why, and the amount and rate by which, the appropriation contained in this bill exceeds the state spending limit to comply with constitutional and statutory requirements.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 3004, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 3004, S.D. 1, H.D. 2, C.D. 1.

Senators Yamasaki, Iwase, Kobayashi, B., McCartney and George.
Managers on the part of the Senate.

Representatives Tam, Souki, Kawakami, Ige, M., and Marumoto.
Managers on the part of the House.

Conf. Com. Rep. No. 99 on S.B. No. 3398

The purpose of this bill is to appropriate \$1 for fiscal year 1992-1993 to initiate the transfer of international technologies and businesses to the State.

Your Committee finds that the State should insure the transfer of international technologies and businesses to create job opportunities for the people of Hawaii.

Your Committee has amended this bill by changing the appropriated amount from \$1 to \$200,000.

Your Committee has also amended this bill by adding a new section stating the reasons why and the amount and rate by which the appropriation contained in this bill exceeds the state spending limit to comply with constitutional and statutory requirements.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 3398, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 3398, S.D. 1, H.D. 2, C.D. 1.

Senators Yamasaki, Aki, Hagino, Matsuura and George.
Managers on the part of the Senate.

Representatives Bellinger, Souki, Kanoho, Ige, M., and Marumoto.
Managers on the part of the House.

Conf. Com. Rep. No. 100 on S.B. No. 1419

The purpose of this bill is to appropriate funds to: (1) provide psychological assistance to persons and communities affected by catastrophic or traumatic emergency events, and (2) support the Hawaii Disaster Medical Assistance Team (DMAT/Hi-1).

Your Committee supports the need for the establishment of state-wide emergency response programs especially the provision of psychological assistance to persons in communities affected by catastrophic or traumatic emergency events.

Your Committee also supports DMAT-Hi-1 which was organized in response to the Aloha Airlines incident in 1988 and comprises over ninety volunteer emergency physicians, surgeons, anesthesiologists, registered nurses, paramedics, and logistic and administrative personnel who provide local and statewide emergency medical assistance during mass casualty disaster incidents. DMAT/Hi-1 is recognized by the United States Public Health Service and the Federal Office of Disaster Affairs as a national and international medical response source.

Your Committee has amended this bill by including \$145,000 for the operations of the DMAT/Hi-1. Your Committee has also amended this bill by adding a new section stating the reasons why, and the amount and rate by which, the appropriation contained in this bill exceeds the state spending limit to comply with constitutional and statutory requirements.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1419, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1419, S.D. 1, H.D. 1, C.D. 1.

Senators Yamasaki, Kobayashi, B., Levin, McMurdo and Koki.
Managers on the part of the Senate.

Representatives Shon, Metcalf, Souki, Amaral, Duldulao, Tajiri and Tatibouet.
Managers on the part of the House.

Conf. Com. Rep. No. 101 on H.B. No. 3960

The purpose of this bill is to clarify Act 132, Session Laws of Hawaii 1991, which was enacted to ensure that condominium project associations have adequate funding of replacement reserves so that apartment owners are not charged high fees unexpectedly for maintenance and repairs to condominium common elements. The bill clarifies Act 132 by:

- (1) Replacing the term "cash reserves" with "replacement reserves";
- (2) Requiring a minimum of fifty percent, rather than one hundred percent, of the estimated replacement reserves based on a reserve study performed by the association;
- (3) Extending the funding of estimated replacement reserves in increments from five to seven years;
- (4) Providing for enforcement by any apartment owner;
- (5) Providing that the requirements of this section override any requirements of the association, with certain exceptions relating to a requirement that the association collect more than fifty percent of reserve requirements; and
- (6) Expanding the definition of "emergency situation" to include extraordinary expenses due to legal or administrative proceedings brought against the association.

Your Committee strongly believes that condominium projects should have adequate reserves in fairness to all owners who receive the benefits of use of the common elements. However, a one-hundred percent reserves requirement may be higher than necessary for the purpose of ensuring that all condominiums have some adequate level of reserves. Accordingly, your Committee believes reducing the mandatory reservation requirement from one-hundred percent to fifty percent will afford a level of protection to all owners. Nothing will preclude condominiums from having a higher or one-hundred percent reserve. Your Committee is informed that many condominiums already meet a fifty percent requirement and thus, will not be affected by this requirement. However, this bill will require condominiums with inadequate reserves to come up to this minimum standard.

Accordingly, your Committee on Conference has agreed to return to the House Draft. A non-substantive technical correction was also made.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3960, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3960, H.D. 1, S.D. 1, C.D. 1.

Senators Crozier, Aki and Reed.
Managers on the part of the Senate.

Senator Reed did not sign the report.

Representatives Hirono, Hiraki, Morihara, Oshiro and Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 102 on H.B. No. 3030

The purpose of the bill is to amend Section 453-8(a), Hawaii Revised Statutes, (H.R.S.), to allow the Board of Medical Examiners ("Board") to consider disciplinary action against doctors for either egregious conduct or negligence which causes harm to another.

After discussions with the Hawaii Medical Association, the Hawaii Federation of Physicians and Dentists and the Department of Commerce and Consumer Affairs, your Committee has amended Section 3 of the bill, §453-8(a)(7),

H.R.S., by adding by "hazardous negligence causing bodily injury to another," as cause for discipline by the Board of Medical Examiners.

Your Committee has also incorporated into this bill the provisions of S.B. 2453 S.D. 1 H.D. 1, dealing with out-of-state prescriptions. The House had earlier passed a House bill on the same subject.

The purpose of this amendment is to allow pharmacists in the State of Hawaii to fill or refill written or orally-ordered out-of-state drug prescriptions on a one-time basis. This is to benefit the State's visitors who may have run out, lost or forgotten their medication.

Upon careful consideration, your Committee has included the House amendment to this bill which limited the supply of prescribed drugs to thirty days. This is to reduce the potential for abuse and conforms with the bill's rationale, that is, to meet the legitimate, short-term needs of Hawaii's visitor population for validly prescribed medicine.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3030, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3030, H.D. 1, S.D. 1, C.D. 1.

Senators Ikeda, Iwase, Matsuura and Koki.
Managers on the part of the Senate.

Representatives Hirono, Metcalf, Amaral, Arakaki, Morihara and Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 103 on H.B. No. 2613

The purpose of this bill is to reduce the permitted level of force that a person responsible for the care of a minor, or an incompetent person, may use.

Your Committee has amended this bill as follows:

- (1) By specifying that the force used must be employed with due regard for the age and size of the recipient;
- (2) By requiring that the force used must be "reasonably related to" the purpose of safeguarding or promoting the welfare of the minor or incompetent person, including the prevention or punishment for conduct; and
- (3) By inserting the term "neurological damage" to further define and clarify the permissible level of force.

These amendments are intended to further clarify the level of force one may use upon minors and incompetents. In determining whether or not the level of force used is permitted under law, a court must consider the age and size of the recipient and whether a reasonable relationship exists between the force used and a legitimate purpose as specified in the statute.

The term "gross degradation" was deleted as surplusage and its removal is not intended to mean that acts of "gross degradation" are now permissible. Rather, the term was deleted to remove the risk of the other words in that paragraph being interpreted "noscitur a sociis" with a term that is not pertinent to the lower threshold.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2613, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2613, H.D. 1, S.D. 1, C.D. 1.

Senators Blair, Crozier and Koki.
Managers on the part of the Senate.

Representatives Metcalf, Amaral, Arakaki, Bainum and Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 104 on H.B. No. 3164

The purpose of this bill is to:

- (1) Revise the computation method of the county general excise and use tax surcharge credit for all taxpayers who reside in counties which have enacted the surcharge;
- (2) Add an additional tax credit schedule for residents residing in a county which has not adopted the general excise and use tax surcharge;
- (3) Increase the medical services excise tax credit to four and one-half percent for residents residing in a county that has enacted a county general excise and use tax surcharge; and
- (4) Provide penalties for individuals who claim the county general excise and use tax surcharge credit or the four and one-half percent medical services tax credit and do not reside in the appropriate county.

Your Committee finds that revising the computation method of the county general excise and use tax surcharge credit will provide additional tax relief for middle and lower income resident individual taxpayers while reducing the tax credit amount for higher income brackets. Your Committee also finds that a separate county general excise and use tax

surcharge credit based upon a reduced schedule is also justified for resident taxpayers who reside in counties which have not enacted a county general excise and use tax surcharge.

Your Committee has amended this bill by:

- (1) Adding a provision to ensure that the tax credits shall be in effect only in each year that the general excise and use tax surcharge is in effect;
- (2) Specifying that the tax credit shall be available to resident individual taxpayers who reside in the appropriate county for more than two hundred days of the taxable year in the aggregate; and
- (3) Making technical, nonsubstantive amendments for the purpose of consistency and clarity.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3164, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3164, H.D. 2, S.D. 2, C.D. 1.

Senators Yamasaki, Aki, Fernandes Salling, George and Kobayashi, A.
Managers on the part of the Senate.

Representatives Oshiro, Ihara Jr., Souki, Baker, Say and Yonamine.
Managers on the part of the House.

Conf. Com. Rep. No. 105 on H.B. No. 3277

The purpose of this bill is to amend the laws relating to insurance company taxation. The bill, as received by your Committee, recommends certain uniform tax rates, provides tax credits against those rates, and makes certain other changes relating to the taxation and payments of taxes by insurance companies.

Your Committee has amended this bill in order to avoid potential constitutional problems and to avoid the loss of revenue. The major purposes of this bill, as amended, are to raise revenue, to provide uniform tax rates in order to avoid potential constitutional problems, to improve state regulation of the insurance industry, and to encourage prompt customer service for the benefit of consumers.

The bill, as amended, encourages both the development and regulation of the insurance industry in Hawaii. The State of Hawaii has made efforts to become a financial center in order to attract banking, stock exchanges, and captive insurance companies. The State has been especially successful in attracting captive insurance companies; 22 companies have been licensed since the captive insurers law was enacted in 1987.

The United States Supreme Court has found that states are free to structure their tax systems to encourage the growth and development of intrastate commerce and industry. See *Trinova Corp. v. Michigan Dept. of Revenue*, 111 S. Ct. 818, 835-836 (1991) (quoting *Boston Stock Exchange v. State Tax Comm'n*, 429 U.S. 318, 336-337 (1977)). A state, however, may not enact legislation the purpose of which is to encourage the development of the insurance industry in the state if the legislation discriminates against nonresidents. See *Metropolitan Life Ins. Co. v. Ward*, 470 U.S. 869, 882 (1985).

Therefore, your Committee has redesigned the tax and credit structure to encourage the development of the insurance industry in Hawaii without discriminating against foreign insurance companies. The tax rates your Committee has provided are uniform and revenue neutral. The tax rates do not discriminate against foreign insurance companies.

Section 1 of the amended bill explains the need for the uniform tax rates and the tax credit, and explains the major purposes to be accomplished by the bill.

Sections 2, 3, 4, and 5 of the bill add four new sections to article 7, part 2 of the insurance code. Article 7 of the code, which contains the insurance premium tax, is devoid of many of the procedural provisions that govern other state taxes. These new sections are intended to conform the administration of the insurance premium tax with the State's other revenue laws.

Section 2 applies the penalty and interest provisions of section 231-39, Hawaii Revised Statutes, regarding noncompliance, evasion, underpayments, and overpayments to the insurance premium tax.

Section 3 clarifies that appeals from insurance premium taxes are to be taken in the same way as appeals from all other state taxes.

Section 4 provides generally that the commissioner of insurance has three years within which to assess deficiencies in the insurance premium tax. The three year period to assess deficiencies is inapplicable if a return of premium tax was false or fraudulent with intent to evade the tax. Also, an insurer has three years within which to claim a refund of insurance tax that it has overpaid. This period does not apply, however, where the tax is appealed or contested pursuant to section 40-35, Hawaii Revised Statutes, as these remedies have their own time limitations. Furthermore, this section of the bill provides that the commissioner and the taxpayer may agree to extend these limitation periods if they have not already expired. These provisions are intended to be comparable to the law and practice under the general excise tax law, as stated in section 237-40, Hawaii Revised Statutes.

Section 5 of the bill provides a one per cent credit to facilitate regulatory oversight of insurers. The tax credit does not require a foreign insurer to substantially restructure its interstate operations in order to qualify, and it is equally available to foreign and domestic insurers. The credit will not be available to ocean marine insurers, as such insurers pay premium

tax on the basis of gross underwriting profit, rather than gross premiums. The credit can be allowed only if the three requirements in subsection (b) of the section are met for the entire taxable year. In order to obtain the credit, an insurer must (1) maintain in Hawaii books and records sufficient to allow the insurance commissioner to conduct an examination of the company, (2) employ in Hawaii persons knowledgeable about the insurer's financial operation and who are authorized to represent the insurer in all matters pertaining to examination, and (3) maintain in Hawaii a customer service center with employees authorized to promptly adjust, settle, and pay claims and to promptly answer all questions from consumers.

The tax credit has been designed to encourage regulation and is rationally related to that legitimate state purpose. Your Committee finds that the business of insurance is a public necessity, and that it is in the public interest to regulate this industry. By federal mandate under the McCarran-Ferguson Act, 15 U.S.C. sections 1011 to 1015, the states have the responsibility to regulate the insurance industry. Recent failures in the insurance industry, for example, the Executive Life Insurance Company, have adversely affected our citizens.

The tax credit is tailored to advance the State's regulatory goals by requiring books and records, and personnel knowledgeable about those books and records, to be readily available to state regulators so that Hawaii need not rely on regulation by other states over whose standards and expertise Hawaii has no control. Regulation will be improved and response by the insurance commissioner will be quicker under the provisions of this bill. Requiring a customer service center in the State so that the State is no longer burdened with the onerous task of resolving consumer complaints with industry representatives on the mainland or in foreign countries will greatly facilitate regulation by eliminating much of the consumer complaint work of the insurance commissioner. If it is more difficult for some nondomestic companies to meet the credit requirements than for some domestic companies, it is because those companies are the cause of the harm that the credit seeks to cure. See Baldwin v. Montana Fish and Game Comm'n, 436 U.S. 371, 388-391 (1978).

Your Committee anticipates that the commissioner of insurance will adopt rules pursuant to chapter 91, Hawaii Revised Statutes, addressing and clarifying these requirements in order to adequately facilitate the commissioner's regulatory oversight.

Section 6 of the bill amends section 7-202(a) and (b) of the insurance code. Ocean marine insurance is taxed as before; all life insurance is taxed at a uniform rate of 2.75%; and other insurance is taxed at a uniform rate of 4.7% for the period of July 1, 1992, to June 30, 1993, and at a rate of 4.265% thereafter.

Section 7 of the bill is intended to clarify refund and payment procedures and to confirm that they are uniform with the procedures provided under the other tax laws. In Aetna Life Insurance Co. v. Park, 5 Haw. App. 122, 678 P.2d 1104 (1984) (Aetna II), the Intermediate Court of Appeals held that some of the concepts contained in section 231-23, Hawaii Revised Statutes, applied to the insurance code. This section confirms and clarifies the intermediate court of appeals' interpretation. Subsection (a) sets forth the general rule regarding refunds and clarifies the administrative authority of the commissioner. First, the commissioner is not expected to deviate from any assessment already made, except to correct clerical errors; and second, the commissioner is not authorized to pass upon the legality of the insurance code, as long as the commissioner applies the code uniformly to all insurers. Any taxpayer wishing to challenge the code or the commissioner's interpretation of the code may do so by pursuing the payment under protest procedures under section 40-35, Hawaii Revised Statutes, or by appealing the assessment. Thus, it is not your Committee's intent to change the holding of the Intermediate Court of Appeals in Aetna Life Insurance Co. v. Park, 5 Haw. App. 115, 677 P.2d 1101 (1984) (Aetna I). Subsection (b) allows a taxpayer to apply an administrative refund to taxes subsequently accruing under the code. Subsection (c) provides that the commissioner will authorize interest to be paid on overpayments of tax in the same manner as that provided for other taxes.

The remaining sections of the bill provide for transitional rules and a general effective date of July 1, 1992, applicable to premiums received after June 30, 1992. In particular, section 8 of the bill amends the definition of "expenses" in article 14 of the insurance code so all insurers whose rates are regulated will retain the benefit of the credit for a year's time, after which the benefit will be passed on to consumers. Many insurers carry multiple lines and file for rate adjustments at various times during any given year, and will be allowed the benefit of the credit for a year from the effective date of each filing as to the line of insurance covered by that filing.

The taxes imposed on insurance premiums produce substantial revenues to meet the State's public needs and programs. The present economic climate has caused a significant downturn in overall revenues, and the State may face a projected budget shortfall in a few years. In light of this, your Committee has amended the tax rate provisions so that current levels of premium tax revenues can be maintained.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3277, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3277, H.D. 2, S.D. 2, C.D. 1.

Senators Yamasaki, Ikeda, Iwase, McCartney and Koki.
Managers on the part of the Senate.

Representatives Hirono, Souki, Baker, Hiraki, Morihara, Say and Anderson.
Managers on the part of the House.

Conf. Com. Rep. No. 106 on H.B. No. 1509

The purpose of this bill is to allow the counties to:

- (1) Establish community facilities special tax districts for the purpose of financing special improvements within the county;

- (2) Issue and sell bonds to fund the special improvements; and
- (3) Assess a special tax on property located in the special tax district to finance the special improvements and to pay debt service on any bonds issued to finance the special improvements.

Your Committee has amended the bill to clarify that special improvements refer to capital improvements and that funds generated by the issuance of these bonds are not to be used for maintenance, services or other general operating expenses.

Your Committee has also amended the bill to:

- (1) Exempt these special tax assessments from the requirement in Section 46-80, Hawaii Revised Statutes, that land be assessed according to the special benefits conferred by the special improvement;
- (2) Delete the requirement that liens be recorded in the Bureau of Conveyances against the properties in the district;
- (3) Clarify that counties need only determine that property subject to the special tax be improved or benefited in a general or any other manner;
- (4) Permit special taxes to include provisions for reserves and arbitrage rebate;
- (5) Clarify that bonds issued are not included in the determination of the power of a county to issue general obligation bonds or funded debt;
- (6) Provide the lessee with the affected owner's rights for notice, hearing and protest if an affected owner fails to waive the requirement that the lessee pay the proposed special tax;
- (7) Clarify that if a lessee is required by the terms of its lease to pay the proposed special tax, the affected owner may waive in writing the requirement that the lessee pay the special tax and obligate the owner to refrain from imposing upon any successor lessee an obligation to pay the special tax;
- (8) Have the Act take effect July 1, 1992; and
- (9) Make other non-substantive changes.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1509, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1509, H.D. 1, S.D. 2, C.D. 1.

Senators Yamasaki, Aki, Fernandes Salling and George.
Managers on the part of the Senate.

Representatives Bellinger, Hashimoto, Souki, Tajiri and Marumoto.
Managers on the part of the House.

Conf. Com. Rep. No. 107 on H.B. No. 2313

The purpose of this bill is to:

- (1) Authorize the Department of Education (DOE) to establish and administer a traffic safety education program to be conducted at each public school for students from kindergarten through grade twelve;
- (2) Extend the time period during which the DOE may conduct the motor vehicle driver education and training program at each public high school to include weekends, holidays, and any recess, in addition to regular school hours;
- (3) Add a provision that requires that fifty percent of the fees deposited into the special drivers education fund account allocated by the Insurance Commissioner be used to support the drivers education program administered by the DOE for high school students and to support the traffic safety education program; and
- (4) Include an appropriation section for funds to employ a traffic safety education resource teacher.

One vital service that Hawaii's public school system provides to students is through its motor vehicle driver education and training program (program). This program fulfills a much-needed service within the community by informing students of the potential hazards encountered on Hawaii's roadways and by educating students to take preventive measures to avoid accidents to themselves and to others. Furthermore, traffic safety education teaches students to practice safe and defensive driving habits.

Your Committee has amended this bill by:

- (1) Permitting, rather than requiring, the DOE to establish the requirements for the position of a traffic safety education specialist;
- (2) Specifying that the traffic safety education specialist may be paid by the DOE out of fees allocated to the Superintendent of Education from the special drivers education fund account pursuant to section 431:10C-115;
- (3) Referring to "traffic safety education resource teacher" as "traffic safety education specialist" instead;

- (4) Deleting the appropriation section contained within the bill; and
- (5) Making technical, nonsubstantive amendments for the purposes of style and clarity.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2313, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2313, H.D. 1, S.D. 2, C.D. 1.

Senators Yamasaki, Iwase, Kobayashi, B., McCartney and George.
Managers on the part of the Senate.

Representatives Tam, Oshiro, Say, Ige, M. and Tatibouet.
Managers on the part of the House.

Conf. Com. Rep. No. 108 on H.B. No. 2366

The purpose of this bill is to re-establish the Molokai Irrigation System Water Users Advisory Board to advise the Department of Agriculture on matters of concern to the users of the Molokai Irrigation System.

Since this measure involves an appropriation for fiscal year 1992-1993, your Committee has amended this bill by adding a new section that specifies the amount and rate that the appropriation contained in this bill exceeds the State's general fund expenditure ceiling, stating that such action will comply with constitutional and statutory requirements. Your Committee has further amended this bill by renumbering the affected sections.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2366, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2366, H.D. 2, S.D. 1, C.D. 1.

Senators Yamasaki, Chang, Levin, Solomon and Koki.
Managers on the part of the Senate.

Representatives Honda, Souki, Baker, Chang, Kawakami and Anderson.
Managers on the part of the House.

Conf. Com. Rep. No. 109 on H.B. No. 3030

The purposes of the bill are to amend Section 453-8(a)(7), Hawaii Revised Statutes, by adding "hazardous negligence causing bodily injury to another," as cause for discipline by the Board of Medical Examiners and to allow pharmacists in the State of Hawaii to fill or refill written or orally-ordered out-of-state drug prescriptions on a one-time basis.

Your Committee has amended this bill by correcting a typographical error.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3030, H.D. 1, S.D. 1, C.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3030, H.D. 1, S.D. 1, C.D. 2.

Senators Ikeda, Iwase, Matsuura and Koki.
Managers on the part of the Senate.

Representatives Hirono, Metcalf, Amaral, Arakaki, Morihara and Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 110 on H.B. No. 3342

The purpose of this Act is to appropriate funds to establish a nonpoint source pollution control program in the Department of Health.

Your Committee on Conference finds that nonpoint source pollution is a major source of water pollution in Hawaii, resulting in negative effect on the State's ecosystems, local living standards, and economy. Your Committee further finds that federal funds are no longer available through the Clean Water Act, Section 205 (j)(5), for the implementation of the State's Nonpoint Source Pollution Program, and that federal funding under Section 319 (h), Grants for Improvement of Management Programs, require State matching moneys, as provided for in this Act.

Your Committee on Conference has amended this bill by:

- (1) Agreeing to adopt the Senate versions for Sections 1 and 2, except for deleting "irrigation system" as an excluded State water, and adding paragraphs on what the director may do in the course of enforcing this chapter or any rule adopted pursuant to this chapter;
- (2) Enlarging the scope of the definition for "Nonpoint source pollution," as recommended by the Department of the Attorney General;
- (3) Adding a section to clarify that this Act not be construed or interpreted to diminish the scope of chapter 342, Hawaii Revised Statutes, or the authority of the Director of Health under chapter 342D, and

(4) Deleting the appropriation section of the bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3342, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3342, H.D. 2, S.D. 2, C.D. 1.

Senators Yamasaki, Chang, Hagino, Levin and George.
Managers on the part of the Senate.

Senator Levin did not sign the report.

Representatives Hiraki, Metcalf, Souki, Baker, Santiago, Young and Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 111 on H.B. No. 2719

The purpose of this bill is to establish a two-year homeless assistance pilot project within the Hawaii Housing Authority.

The bill would:

- (1) Establish a two-year homeless assistance pilot project to give incentives and assistance to private homeowners who provide housing to homeless persons or families for five years;
- (2) Establish a homeless programs coordinator and a homeless assistance coordinating committee;
- (3) Allow no more than five sites per census district, to prevent saturation of communities; and
- (4) Appropriate an unspecified amount for funding the homeless assistance pilot project.

Your Committee finds that the public issue of homelessness is one of the greatest social problems in Hawaii. The voluntary program established by this bill would offer an alternative to costly shelters and would allow for separation of the different types of homeless, enabling agencies to provide better care to all segments of the homeless population and opening an avenue for returning homeless persons and families back to the mainstream of society.

Your Committee also finds that, as much as possible, homeless families should receive priority over single persons for placement in homes.

Your Committee amended the bill by:

- (1) Adding to the purpose section an explanation of the severity of the homeless problem and greater details on the description of the program;
- (2) Giving the project the name "Hale Kokua";
- (3) Removing "for administrative purposes" from the section establishing the pilot project;
- (4) Providing for the executive director of the Hawaii Housing Authority to administer the project, rather than the homeless programs coordinator;
- (5) Adding, to the duties of the coordinator, the adoption of rules under Chapter 91, Hawaii Revised Statutes, providing that any rules adopted within one year after the effective date shall be exempt from the public notice and public hearing requirements of Chapter 91;
- (6) Changing the composition of the homeless assistance coordinating committee by removing the coordinator and adding the director, who will serve as the ex-officio voting chairperson;
- (7) Providing that the assistance offered to property owners shall "include, but not be limited to, at least one of the following";
- (8) For property owners withdrawing before the end of the five-year term, providing that the counties shall determine the disposition of any housing units constructed with a grant;
- (9) Changing the requirement for an annual report on the status of the project to a requirement for an interim report;
- (10) Providing that the repeal of the Act shall not affect the right to recover grants under section 8;
- (11) Deleting the appropriation sections; and
- (12) Making technical, nonsubstantive changes for the purposes of style and clarity.

Your Committee also finds that the funds available for the current homeless stipend program may be used for the Hale Kokua project.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2719, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2719, H.D. 2, S.D. 1, C.D. 1.

Senators Yamasaki, Aki, Crozier, Kobayashi, B., and Koki.
Managers on the part of the Senate.

Senators Kobayashi, B., and Koki did not sign the report.

Representatives Isbell, Tom, Souki, Amaral, Bainum, Kawakami and Tatibouet.
Managers on the part of the House.

Representative Tatibouet did not sign the report.

Conf. Com. Rep. No. 112 on H.B. No. 3982

The purpose of this bill is to implement the Diamond Head State Monument Plan of 1979 by including additional lands within the Diamond Head State Monument area, requiring conformance to the plan, and funding improvements to the Diamond Head trail system in the Diamond Head area.

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

- (1) Removing the land parcel known as Kuilei Cliffs, identified by Tax Map Key Number 3-1-42:2, from within the Diamond Head State Monument area;
- (2) Deleting all of section 6 which refers to the withdrawal of lands within the Diamond Head State Monument set aside by Executive Orders 1832 and 1997 as well as proposed leases on these lands.
- (3) Inserting an appropriation of \$100,000 in section 7 for improvements to the Diamond Head trail system.
- (4) Deleting section 8 which refers to appropriations for developing plans to relocate the Hawaii national guard and Federal Aviation Administration facilities.
- (5) Adding a new section stating the reasons why and the amount and rate by which the appropriations contained in this bill exceed the state spending limit to comply with constitutional and statutory requirements; and
- (6) Making technical, nonsubstantive amendments for the purposes of style and clarity.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3982, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3982, H.D. 1, S.D. 2, C.D. 1.

Senators Yamasaki, Nakasato, Holt, Kobayashi, A., and Koki.
Managers on the part of the Senate.

Senator Koki did not sign the report.

Representatives Ihara Jr., Hagino, Souki, Hashimoto, Horita, Yonamine, Young and Marumoto.
Managers on the part of the House.

Representative Hashimoto did not sign the report.

Conf. Com. Rep. No. 113 on H.B. No. 2959

The purpose of this bill is to appropriate funds to be expended by the Department of Health to investigate the cause of the recent, extensive algal bloom occurring off the West Maui coastline.

The widespread algal bloom affecting Maui's shoreline has rendered many of the beaches and snorkeling areas unsuitable for recreational use. A thorough investigation into the potential causes of this blight on the nearshore marine environment in Maui could provide information that would be beneficial statewide.

Your Committee has amended this bill by:

- (1) Providing the sum of \$100,000 for the investigation of the causes of the algal bloom;
- (2) Adding a new section stating the reasons why and the amount and rate by which the appropriation contained in this bill exceeds the state spending limit to comply with constitutional and statutory requirements; and
- (3) Making technical, nonsubstantive amendments for the purpose of style and clarity.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2959, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2959, H.D. 2, S.D. 1, C.D. 1.

Senators Yamasaki, Chang, Hagino, Levin and Koki.
Managers on the part of the Senate.

Senator Koki did not sign the report.

Representatives Stegmaier, Shon, Souki, Bainum, Baker, Morihara and O'Kieffe.
Managers on the part of the House.

Representative O'Kieffe did not sign the report.

Conf. Com. Rep. No. 114 on H.B. No. 3944

The purpose of this measure is to require the Office of State Planning (OSP) to conduct a comprehensive study and evaluation of land use regulation and management in Hawaii and to make recommendations for improving related laws and practices.

Upon further consideration, your Committee has amended this bill by deleting its contents and substituting a measure which:

- (1) Allows the Board of Land and Natural Resources (BLNR) to modify restrictions on a commercial lease or to extend the term of a commercial lease for an aggregate term of fifty-five years, in order to qualify the lease for mortgage lending or guaranty purposes; and
- (2) Adds aquaculture operations to the list of operations for which disposition of public lands may be negotiated with greater flexibility by the BLNR.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3944, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3944, H.D. 1, S.D. 1, C.D. 1.

Senators Holt, Iwase, Matsuura and George.
Managers on the part of the Senate.

Representatives Hagino, Metcalf, Alcon, Amaral, Young and O'Kieffe.
Managers on the part of the House.

Representatives Alcon and O'Kieffe did not sign the report.

Conf. Com. Rep. No. 115 on H.B. No. 3084

The purpose of this bill is to make statutory revisions to Chapter 342L, Hawaii Revised Statutes (HRS), regarding Underground Storage Tank (UST) Management, for purposes of clarity, consistency, and equivalency with the Federal UST law.

This bill also adds several new sections to the law to finance and establish soil remediation farms throughout the State beginning on October 1, 1992, and to regulate underground storage tank service providers.

Your Committee has amended this bill by:

- (1) Deleting the sections on soil remediation farms and regulating service providers, and inserting a new section on a directory of underground storage tank service providers;
- (2) Amending the definition of "soil remediation farm" to "soil remediation site;"
- (3) Amending Section 342L-36.5, HRS, to:
 - (a) Retain the original statutory language contained in subsection (a);
 - (b) Insert a new subsection (b) which allows the Department of Health to deduct up to \$50,000 of fees collected to educate tank owners;
 - (c) Insert a new subsection (c) which allows the Department of Business, Economic Development, and Tourism to deduct up to \$100,000 of fees collected to identify state-owned lands on the islands of Oahu, Hawaii, Maui, and Kauai for the purpose of remediating contaminated soils;
 - (d) Change subsection (b) to (d);
 - (e) Change subsection (c) to (e) and clarify which owners are subject to the tank fee assessment; and
 - (f) Delete the original subsection (d) in its entirety to reflect the deletion of the soil remediation farm section as noted in item (1) above;
- (4) Deleting the Senate language contained in Section 33 and inserting the House language for this section to reflect the deletion of the soil remediation farm section as noted in item (1) above.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3084, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3084, H.D. 2, S.D. 2, C.D. 1.

Senators Yamasaki, Chang, Hagino, Levin and George.
Managers on the part of the Senate.

Representatives Hiraki, Metcalf, Say, Kawakami, Morihara, Young and Thielen.
Managers on the part of the House.

Representative Say did not sign he report.

Conf. Com. Rep. No. 116 on H.B. No. 2319

The purpose of this bill is to provide that after January 1, 1992, the Housing Finance and Development Corporation (HFDC) shall require the installation of solar water heating equipment at any residential development project built with state funds, located on state lands, or otherwise subsidized by the State.

Your Committee has amended this measure by:

- (1) Providing that as of January 1, 1993, HFDC require the installation of solar water heating equipment according to the following percentages of units approved between 1993 to 1995: thirty percent in 1993, forty percent in 1994, and fifty percent in 1995;
- (2) Deleting the provision exempting projects developed by private nonprofit corporations from this requirement;
- (3) Requiring the Department of Business, Economic Development, and Tourism (DBED) to adopt rules pursuant to Chapter 91, Hawaii Revised Statutes, with respect to alternate water heating systems that shall be installed in the remaining units not required in Section 2 to have solar water heating equipment;
- (4) Requiring DBED to submit a report to the Legislature before the 1996 legislative session evaluating the overall life-cycle cost and energy efficiency of the heating equipment being installed; and
- (5) Amending the effective date to take effect upon approval and to be repealed on January 1, 1996.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2319, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2319, H.D. 2, S.D. 1, C.D. 1.

Senators Crozier, Aki and Reed.
Managers on the part of the Senate.

Representatives Hiraki, Isbell, Souki, Alcon, Morihara, Young and Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 117 on H.B. No. 3119

The purpose of this bill is to continue transferring law enforcement positions and functions to the Department of Public Safety from other state departments.

Act 211, Session Laws of Hawaii 1989, establishes the Department of Public Safety as the umbrella organization for state law enforcement functions that had previously been assigned to various departments. Some personnel and functions were transferred by that Act, while the Director in consultation with the Governor studied other personnel and functions that should also be transferred. This bill will codify the recommendations made pursuant to that study.

This bill transfers to the Department of Public Safety:

- (1) Executive security officers in the Department of the Attorney General, effective July 1, 1993;
- (2) After-hours contract security employees with the Department of Education, including library security officers and contractual security officers, effective July 1, 1993;
- (3) Uniformed security employees and contractual security officers employed by the Department of Health for the state hospitals, effective January 1, 1993; and
- (4) Contractual security guards with the Department of Human Services, effective January 1, 1993.

Your Committee finds that the transfers proposed by this measure are consistent with the policy established by Act 211.

This bill is amended by:

- (1) Appropriating \$250,000, for fiscal year 1992-1993, to facilitate the transfers;
- (2) Adding a new section stating the reasons why and the amount and rate by which the appropriation contained in this bill exceeds the state spending limit to comply with constitutional and statutory requirements; and
- (3) Making technical, nonsubstantive changes for the purposes of clarity, style, and consistency.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3119, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3119, H.D. 2, S.D. 1, C.D. 1.

Senators Yamasaki, Iwase, Kobayashi, A., Mizuguchi and Koki.
Managers on the part of the Senate.

Senator Koki did not sign the report.

Representatives Metcalf, Yonamine, Souki, Baker, Hagino, Hirono and Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 118 on H.B. No. 3838

The purpose of this bill is to enable the Department of Health to meet the requirements of the federal Clean Air Act Amendments of 1990 through the rule-making process. Specifically, this bill:

- (1) Provides for criminal penalties for violations of the State Clean Air Act;
- (2) Establishes a small business assistance program to provide technical support and environmental compliance information;
- (3) Establishes a compliance advisory council;
- (4) Establishes a small business ombudsman for air pollution control;
- (5) Provides for judicial review of permit decisions for all participants in the public comment process;
- (6) Increases the penalties for violating Chapter 342B or for hampering inspection efforts to not more than \$25,000;
- (7) Authorizes the Department of Health (Department) to establish permit fees to cover the costs of developing, supporting, and administering Clean Air Act permits;
- (8) Prohibits the emission of air pollutants without written approval; and
- (9) Defines "air pollutant" as any substance designated as such by state rule.

Upon further consideration, your Committee has provided the Department with greater statutory guidance by replacing Chapter 342B, Hawaii Revised Statutes, with a new chapter on air pollution control. Your Committee finds that, from a legislative perspective, this approach clearly establishes legislative intent with regard to the manner in which air pollution shall be controlled in this state.

As amended, this bill consists of provisions that:

- (1) Expand on items (1) through (8) listed above; and
- (2) Include certain portions of Chapter 342B.

In addition, this bill contains language that:

- (1) Establishes a new and comprehensive permit program for covered sources to be funded by fees collected from the sources based on the number of tons of emissions of air pollutants;
- (2) Establishes a clean air special fund into which the fees will be deposited;
- (3) Provides a new definition of "air pollutant" which is defined by the federal Clean Air Act that includes those substances for which State rules are adopted;
- (4) Increases the civil penalties;
- (5) Provides public participation in consent orders and settlement agreements;
- (6) Allows for citizen suits beginning on July 1, 1995;
- (7) Requires the Department to submit annual reports on air quality;
- (8) Provides for minimum permit conditions; and
- (9) Increases public participation by expanding the comment period to sixty days.

Your Committee has also made technical, nonsubstantive amendments to the bill for purposes of style and clarity.

In drafting these provisions, your Committee, to the extent possible, attempted to base provisions on the requirements of the federal Clean Air Act. However, in some instances, it was felt that provisions of the federal proposed regulations should be included. It is your Committee's understanding that the federal intent is to give the states as much discretion as possible in tailoring their programs to each individual state's needs. At the same time, your Committee recognizes that subsequent amendments to some of these provisions may be required after the final federal regulations have been promulgated. Should this become necessary, your Committee stands prepared to do what is needed to bring State law and rules into conformity with federal guidelines.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3838, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3838, H.D. 2, S.D. 2, C.D. 1.

Senators Yamasaki, Chang, Hagino, Levin and George.
Managers on the part of the Senate.

Senator Hagino did not sign the report.

Representatives Hiraki, Souki, Chang, Hagino, Kanoho, Morihara and Thielen.
Managers on the part of the House.

Representative Chang did not sign the report.

Conf. Com. Rep. No. 119 on H.B. No. 2871

The purpose of this bill is to establish that a person can be found criminally negligent for storage of a firearm if a person keeps a firearm on the premises and the person knows or reasonably should know that a minor can gain access to the firearm without the permission of the parent or guardian and that minor does obtain the firearm.

Your Committee on Conference, in Conference Draft 1, had mandated that the penalty for the criminally negligent storage of a firearm is a class C felony. After consideration, your Committee on Conference has agreed to reduce this penalty to a misdemeanor and has amended the bill accordingly.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2871, H.D. 1, S.D. 1, C.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2871, H.D. 1, S.D. 1, C.D. 2.

Senators Blair, Crozier and Reed.
Managers on the part of the Senate.

Senator Reed did not sign the report.

Representatives Metcalf, Amaral, Bainum, Hagino and Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 120 on H.B. No. 2911

The purpose of this measure is to appropriate funds to the Department of Hawaiian Home Lands (DHHL) for administrative costs, a contingency fund, and low-interest loans for self-help housing on Hawaiian home lands in Panaewa and Keaukaha on the island of Hawaii.

Your Committee finds that many families participating in self-help programs in Panaewa and Keaukaha lack the wherewithal to qualify for financing, and that this bill will help enable such families to purchase their own homes.

Your Committee has amended this bill by:

- (1) Inserting the appropriation amount of \$350,000 for fiscal year 1992-1993 for self-help housing on Hawaiian home lands in Panaewa and Keaukaha on the island of Hawaii;
- (2) Stipulating that any funds remaining after the DHHL determines that the need for the loans in Panaewa and Keaukaha has been met shall be made available for similar loans elsewhere in the state;
- (3) Adding a new section stating the reasons why and the amount and rate by which the appropriation contained in this bill exceeds the state spending limit, in order to comply with constitutional and statutory requirements; and
- (4) Making technical, nonsubstantive amendments for the purpose of style and clarity.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2911, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2911, H.D. 2, S.D. 1, C.D. 1.

Senators Yamasaki, Aki, Crozier, Kobayashi, B., and Koki.
Managers on the part of the Senate.

Representatives Hagino, Souki, Ige, D., Tajiri, Young and Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 121 on H.B. No. 3076

The purpose of this bill is to:

- (1) Make an emergency appropriation, at the recommendation of the Governor, of \$15,000,000 to the Department of Health (DOH) to provide operating funds for the division of community hospitals for the remainder of the 1991-1992 fiscal year; and

- (2) Require that the DOH meet, in good faith, with private sector health care facility operators to avail itself to information on effective and efficient operation, administration, and financial management of community hospitals; and based on these meetings, submit a report to the Legislature on the possible implementation of the recommendations made by these parties.

Your Committee has amended this bill by clarifying that the appropriation contained in this bill will exceed the general fund expenditure ceiling by 0.53 percent, instead of 12.4 percent.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3076, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3076, H.D. 1, S.D. 2, C.D. 1.

Senators Yamasaki, Kobayashi, A., Levin, McMurdo and Koki.
Managers on the part of the Senate.

Representatives Souki, Shon, Baker, Duldulao, Say and Anderson.
Managers on the part of the House.

Conf. Com. Rep. No. 122 on H.B. No. 3854

The purpose of this bill is essentially to:

- (1) Provide that the knowing and intentional violation of a restraining order issued pursuant to Section 580-10, Hawaii Revised Statutes (HRS), is a misdemeanor and the violator shall be sentenced to counseling and possible jail sentence;
- (2) Provide that the temporary restraining order (TRO) shall enjoin the respondent from performing any combination of certain offensive acts;
- (3) Provide that a family court judge may issue orally a TRO if the respondent is present in court;
- (4) Provide that a TRO will be in effect for a period not to exceed ninety days from the date the order is granted;
- (5) Provide that the knowing and intentional violation of an order for protection issued pursuant to Section 586-11, HRS, is a misdemeanor and the violator shall be sentenced to counseling and possible jail sentence;
- (6) Provide that for the first offense of the abuse of a household member the person shall serve a minimum jail sentence of forty-eight hours; and
- (7) Provide that for the second and any subsequent offense which occurs within one year of the previous offense the person shall be termed a "repeat offender" and serve a minimum jail sentence of thirty days.

This bill is used as a vehicle to consolidate several bills amending the provisions of Chapter 586, HRS, a bill dealing with Chapter 709, HRS, and a proposed amendment to Chapter 580, HRS. These bills are thematically related and consolidation provides a better prospect of consistency. More specifically the following bills were incorporated: H.B. 2605, H.D. 1 (§586-4 and -11, HRS); H.B. 3221, H.D. 1 (§586-5 and -6, HRS); and H.B. 3326, H.D. 1 (§709-906, HRS). In addition, a proposed amendment to Section 580-10, HRS, was included.

Your Committee has corrected an error in Section 6 found on page 8. This section of the bill amends Section 586-11, HRS, entitled "Violation of an order for protection." In Conference Draft 1, the proposed terminology used in amending this section is "temporary restraining order." As Section 586-11, HRS, only addresses "order for protection" and not "temporary restraining order", the term "temporary restraining order" found on page 9, lines 2 and 8-9, is replaced with "order for protection" to avoid confusion.

Your Committee also had agreed to adopt the House version in amending Section 709-906, HRS, in Section 7 of this measure. The House version which amends section 709-906 is found in H.B. No. 3326, H.D. 1. This version was not completely inserted in Conference Draft 1, but is so now in Conference Draft 2. Technical, nonsubstantive changes are also made for the purposes of clarity, style, and consistency.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3854, H.D. 1, S.D. 1, C.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3854, H.D. 1, S.D. 1, C.D. 2.

Senators Blair, Ikeda and Koki.
Managers on the part of the Senate.

Senator Koki did not sign the report.

Representatives Metcalf, Amaral, Arakaki, Hirono and Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 123 on H.B. No. 2614

The purpose of this bill is to evaluate and improve the present system of support services provided to domestic abuse victims, taking into account the different needs of the people on each of the islands, by appropriating funds to the Legislative Reference Bureau ("LRB") for the implementation of a study that will:

- (1) Identify and evaluate social services and gaps in services currently being provided to victims of domestic violence, such as emergency care, shelter, and counseling, but excluding services provided by law enforcement and prosecutorial agencies;
- (2) Make recommendations for the development of a model, in each county, that will assist victims in obtaining the support services necessary to make the transition from the abusive situation and deal with the legal procedures involved in the apprehension and prosecution of the abuser; and
- (3) Consider models similar to intake and referral services, victim witness or child advocacy programs, child or dependent adult protective services, sex abuse treatment programs, or a combination of these types of programs or services.

This bill further directs all state, county, and private agencies providing services to provide full cooperation and support to the LRB.

Your Committee on Conference clarifies at this time that for the purposes of this Act, "domestic violence" means domestic abuse, as defined by Chapter 586, Hawaii Revised Statutes, by a spouse or other intimate and does not include neglect or abuse of a child or elder, as mentioned in Senate Standing Committee Report No. 2385-92.

This measure has been amended by:

- (1) Adding a new section stating the reasons why and the amount and rate by which the appropriation contained in this bill exceeds the state spending limit to comply with constitutional and statutory requirements; and
- (2) Making technical, nonsubstantive changes for the purposes of clarity and consistency.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2614, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2614, H.D. 2, S.D. 1, C.D. 1.

Senators Yamasaki, Blair, Hagino, Kobayashi, A., and George.
Managers on the part of the Senate.

Representatives Metcalf, Say, Amaral, Arakaki, Baker, Hirono and Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 124 on H.B. No. 2431

Your Committee has amended this bill by adding a new section stating the reasons why and the amount and rate by which the appropriation contained in this bill exceeds the state spending limit to comply with constitutional and statutory requirements.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2431, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2431, H.D. 2, S.D. 2, C.D. 1.

Senators Yamasaki, Cobb, Hagino, Tungpalan and Koki.
Managers on the part of the Senate.

Representatives Ige, D., Souki, Ihara Jr., Lee, Say and Tatibouet.
Managers on the part of the House.

Conf. Com. Rep. No. 125 on H.B. No. 2917

The purpose of this bill is to establish the Program for All-Inclusive Care for the Elderly (PACE) demonstration project in the Department of Health's Maluhia Long-Term Care Center.

Your Committee has agreed to the H.D. 2 version of the bill, with the following amendments:

- (1) Provided that the Department of Health "may" rather than "shall" adopt rules in accordance with Chapter 91, Hawaii Revised Statutes, for the purposes of this Act;
- (2) Deleted provisions which would have established the PACE risk reserve fund; and
- (3) Made technical, nonsubstantive amendments for the purposes of clarity and style.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2917, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2917, H.D. 2, S.D. 2, C.D. 1.

Senators Yamasaki, Kobayashi, B., Levin, McMurdo and Koki.
Managers on the part of the Senate.

Representatives Tom, Shon, Souki, Amaral, Duldulao, Kawakami and Tatibouet.
Managers on the part of the House.

Conf. Com. Rep. No. 126 on H.B. No. 3857

The purpose of this bill is to:

- (1) Continue the two-year family center demonstration project (Project) established by Act 329, Session Laws of Hawaii 1990, until July 1, 1993;
- (2) Expand the Project to more than one family center;
- (3) Provide that each family support center shall be advised by a community liaison committee;
- (4) Require family centers to establish a training and technical assistance component to develop and promote family centers and family center concepts;
- (5) Maintain the availability of family literacy programs while providing that these programs need not be operated directly by the family centers; and
- (4) Provide that Act 329 shall be repealed on July 1, 1993.

Your Committee has agreed to adopt H.B. 3857, H.D. 2, with the following amendments:

- (1) Clarifying that family support principles shall direct that services must, inter alia, focus on community strengthening and development;
- (2) Providing that Sections 1, 3, and 4 of Act 329 shall be repealed on July 1, 1993;
- (3) Deleting the provision which would have repealed Act 329 on June 30, 1993; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and style.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3857, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3857, H.D. 2, S.D. 2, C.D. 1.

Senators Yamasaki, Kobayashi, B., Levin, McMurdo and Koki.
Managers on the part of the Senate.

Representatives Tom, Souki, Arakaki, Chun, Ige, M., Kanoho, Kawakami and Tatibouet.
Managers on the part of the House.

Conf. Com. Rep. No. 127 on H.B. No. 3002

The purpose of this bill is to appropriate funds from the general revenues of the State to satisfy claims for legislative relief, judgments against the State, settlements, attorney fees, and miscellaneous claims. The bill further provides the reasons and the amount and rate by which the appropriations contained in this bill exceed the state spending limit for fiscal year 1991-1992.

Your Committee has amended this bill by:

- (1) Adding a new section stating the reasons why and the amount and rate by which the appropriation contained in this bill exceeds the state spending limit to comply with constitutional and statutory requirements;
- (2) Reinserting the settlement reached in Interior Showplace, Inc. v. State of Hawaii;
- (3) Adding the following claims as advised in a memorandum dated April 20, 1992, from the Department of the Attorney General and addressed to your Committee on Conference:

(a) James and Heiki Fujita dba Olena Farms	\$25,000.00 Settlement
(b) Vonda Preston	\$12,530.65 Settlement
(c) Tayaba, et al. v. Kautzky, et al. Civil No. 91-1313-04, First Circuit	\$15,000.00 Settlement
(d) Utu v. Falk Civil No. 88-0577-HMF, U.S.D.C. Amount of Judgment: \$16,000.00 Interest at 4% from 1/3/90 \$ 3,261.55	\$19,261.55

- (4) Amending the claim of Albert Moniz v. State of Hawaii, et al, to read:

Albert Moniz, Jr. v. State of Hawaii, et al. Civ. No. 90-00517ACK, U.S.D.C.	\$56,009.84 Settlement
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Amount of Judgment:	\$55,000.00
Interest at 4% from 10/22/91	\$ 1,009.84

- (5) Deleting the claim for Kay Austen v. State, et al, per the same memo from the Department of the Attorney general; and
- (6) Making technical, nonsubstantive changes for the purposes of clarity, style, and consistency.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3002, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3002, H.D. 2, S.D. 2, C.D. 1.

Senators Yamasaki, Blair, Cobb, Hagino and Koki.
Managers on the part of the Senate.

Representatives Metcalf, Souki, Amaral, Cachola, Duldulao, Hiraki, Kanoho and Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 128 on H.B. No. 2612 (Majority)

The purpose of this bill is to create a model for the gathering of data and statistics on the nature and frequency of occurrence of hate crimes in Hawaii.

A comprehensive data collection system would allow legislators and policymakers to ascertain crime prevalence, chart fundamental crime trends over a period of time or within a specific geographical location, and identify criminal justice and crime related issues and priorities. The development of a model to collect hate crimes statistics in Hawaii would greatly assist this purpose.

Your Committee on Conference has amended this bill by adding a new section stating the reasons why and the amount and rate by which the appropriation contained in this bill exceeds the state spending limit to comply with constitutional and statutory requirements.

Technical, nonsubstantive revisions were also made for purposes of style and clarity.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2612, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2612, H.D. 2, S.D. 1, C.D. 1.

Senators Yamasaki, Blair, Hagino, Iwase and Koki.
Managers on the part of the Senate.

Senator Koki did not concur.

Representatives Metcalf, Souki, Amaral, Arakaki, Bainum, Baker and Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 129 on H.B. No. 3353

The purpose of this bill is to authorize the issuance of revenue bonds for the purpose of financing and refinancing the purchase of the Queen Emma Gardens Apartments complex by the Housing Finance and Development Corporation (HFDC).

Your Committee has made amendments to provide that:

- (1) The issuance of the bonds is to be subject to the approval of the fiscal soundness of the purchase plan by the director of finance, and the director's satisfaction that the purchase is in the best interests of the State and the tenants of Queen Emma Gardens Apartments complex;
- (2) The bonds are issued for the acquisition of Queen Emma Gardens Apartments complex by purchase or eminent domain proceedings in an amount up to \$55,000,000; and
- (3) Before the HFDC purchases or acquires the property through eminent domain proceedings, the City and County of Honolulu must relinquish any reversionary interests in the property.

Your Committee also made technical, non-substantive amendments for the purposes of clarity, style, and consistency.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3353, H.D. 3, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3353, H.D. 3, S.D. 1, C.D. 1.

Senators Yamasaki, Aki, Crozier, Kobayashi, B., and Reed.
Managers on the part of the Senate.

Senators Crozier and Kobayashi, B., did not sign the report.

Representatives Isbell, Souki, Bainum, Chun, Shon and Yonamine.

Managers on the part of the House.

Conf. Com. Rep. No. 130 on H.B. No. 3493

The purpose of this bill, as received, is to appropriate \$1,444,000 for repair and maintenance projects in each of the 236 public schools. This bill also appropriates \$444,000 for salaries and expenses to establish eight handyworker positions within the central services division of the department of accounting and general services. Specifically, this bill requires that these positions be dedicated to the department of accounting and general services' school repair and maintenance program and serve areas of critical need.

Your Committee finds that the establishment of school repair and maintenance accounts reflects the recommendation of the Task Force on Educational Governance to eliminate "red tape" and empower schools. Your Committee notes that it is not the intent of the Legislature to burden school principals, but rather to streamline the process so that each school can take care of minor repair and maintenance projects in a timely and expeditious manner.

Accordingly, your Committee has amended this bill by:

- (1) Authorizing the Department of Education to establish school-level minor repairs and maintenance accounts, not to exceed \$8,000 for each public school, to be administered by each school's principal;
- (2) Inserting an appropriation sum of \$1,888,000 for fiscal year 1992-1993 to distribute the sum of \$8,000 to each of the 236 public schools for minor repairs and maintenance; and
- (3) Requesting a report from the Department of Education on the establishment of the school accounts and repairs made from such accounts.

Your Committee has also amended this bill by adding a new section stating the reasons why and the amount and rate by which the appropriation contained in this bill exceeds the state spending limit to comply with constitutional and statutory requirements.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3493, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3493, H.D. 2, S.D. 2, C.D. 1.

Senators Yamasaki, Kobayashi, B., Koki, McCartney and Solomon.
Managers on the part of the Senate.

Representatives Souki, Tam, Baker, Isbell, Santiago, Shon, Tatibouet and Yonamine.
Managers on the part of the House.

Representative Santiago did not sign the report.

Conf. Com. Rep. No. 131 on H.B. No. 3801

The purpose of this bill is to create the Hawaii Community Hospitals Public Corporation (Corporation), to be effective on July 1, 1993. This bill:

- (1) Creates a board of directors of the Corporation consisting of nine voting members and one nonvoting member who is to be the chief executive officer to be appointed by the board. Eight voting members are to be representatives of their respective counties and one voting member is to be the Director of Health as an ex officio member;
- (2) Creates four county advisory committees within the Corporation to advise their respective public health facility administrators;
- (3) Allows each administrator to organize facility committees to advise the administrator and the community;
- (4) Grants the Corporation general powers;
- (5) Provides for appointment of a chief executive officer without regard to civil service provisions;
- (6) Confers certain powers to the chief executive officer including hiring various personnel with and without regard to civil service provisions;
- (7) Provides for exempt and nonexempt personnel; and
- (8) Requires submission of an annual report to the Legislature.

In addition, the bill:

- (1) Creates an interim Hospitals Governance Committee (Committee), to be headed by an independent chairperson, to plan the orderly transition of authority and functions from the Division of Community Hospitals of the Department of Health to the Corporation. The Committee is to submit proposed amendments to the law governing the Corporation for the Legislature's consideration and action in the 1993 Regular Session for the purpose of implementing an appropriate, effective, and efficient system of operating and managing the Corporation;
- (2) Specifies a non-exhaustive list of issues to be addressed by the Committee;

- (3) Provides for the composition of the Committee;
- (4) Creates a hospitals governance support team and provides for its composition;
- (5) Requires the Governor to appoint an independent chairperson of the Committee;
- (6) Requires the support team to act as an executive search committee for the chairperson of the Committee;
- (7) Sets deadlines for the appointment and empanelling of the support team, the Committee, and the chairperson of the Committee;
- (8) Sets qualifications of the chairperson of the Committee;
- (9) Amends Act 223, Session Laws of Hawaii 1990, to extend the deadline for the Department of Health to formulate policies for the autonomous operation of Maui Memorial and Hilo Hospitals from June 30, 1992 to June 30, 1993; to provide for the submission of an additional interim status report to the Governor, the President of the Senate, and the Speaker of the House of Representatives not less than twenty days before the convening of the 1993 Regular Session; and to extend the date for submitting the final project completion report to twenty days before the convening of the 1994 Regular Session;
- (10) Appropriates an unspecified amount for the operation of the Committee and an unspecified amount for funding the executive search for the chairperson of the Committee, to be expended by the Department of Health;
- (11) Provides for passage of the bill before passage of the budget; and
- (12) Gives effect to the bill upon approval except for the new chapter regarding the Corporation which is to take effect on July 1, 1993.

Your Committee has amended this bill by:

- (1) Deleting its substance, except for language amending Act 223;
- (2) Extending the deadline for the Department of Health to formulate policies for the autonomous operation of Maui Memorial and Hilo Hospitals from June 30, 1992 to June 30, 1993;
- (3) Requiring the Director of Health to submit an interim report to the Governor, the President of the Senate, and the Speaker of the House of Representatives not less than twenty days prior to the 1993 Regular Session, and a final project completion report not less than twenty days prior to the 1994 Legislature;
- (4) Extending the repeal date of Act 223 to January 1, 1993, except for Section 9, the repeal date of which is extended to January 1, 1994; and
- (5) Adding Kona Hospital to Act 223.

Your Committee feels that continuing the formulation of policies for the autonomous operation of Maui Memorial and Hilo Hospital in fiscal year 1993 is desirable.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3801, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3801, H.D. 2, S.D. 2, C.D. 1.

Senators Yamasaki, Aki, Kobayashi, A., Levin, McMurdo, Mizuguchi and Koki.
Managers on the part of the Senate.

Senators Aki and Koki did not sign the report.

Representatives Shon, Souki, Baker, Duldulalo, Kawakami, Say, Tajiri and Marumoto.
Managers on the part of the House.

Representative Tajiri did not sign the report.

Conf. Com. Rep. No. 132 on H.B. No. 2400

The purpose of this bill is to establish a Residential Mortgage Insurance Underwriting Program within the Housing Finance and Development Corporation (HFDC) to insure mortgage loans made for multi-family rental housing under which a private nonprofit corporation or a government corporation is the mortgagee.

Your Committee has amended the bill by:

- (1) Clarifying that the aggregate principal amount of insurance liability for loans which may be insured shall not exceed \$50,000,000;
- (2) Clarifying that in establishing the guidelines for mortgage insurance underwriting, the HFDC shall seek to establish levels of permissible "loan" coverage, rather than "loan-to-value" coverage, which are adequate to make the insured mortgages acceptable to secondary market investors;

- (3) Providing that the source of funds to capitalize the Multi-family Rental Housing Mortgage Insurance Revolving Fund shall be the Homes Revolving Fund rather than the general revenues of the State; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and style.

Your Committee has amended this bill by adding a new section stating the reasons why and the amount and rate by which the appropriation contained in this bill exceeds the state spending limit to comply with constitutional and statutory requirements.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2400, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2400, H.D. 2, S.D. 2, C.D. 1.

Senators Yamasaki, Crozier, Ikeda, Kobayashi, B., and Koki.
Managers on the part of the Senate.

Representatives Isbell, Hirono, Souki, Alcon, Bainum, Chun, Morihara and Tatibouet.
Managers on the part of the House.

Conf. Com. Rep. No. 133 on H.B. No. 3179

The purpose of this bill is to:

- (1) Repeal Act 302, Session Laws of Hawaii 1991, and to specify that the unexpended balance of the appropriation made in Act 302 shall lapse into the general fund;
- (2) Appropriate an unspecified amount for the acquisition of an electronic voting system, including the hiring of staff; and
- (3) Exempt the selection and negotiation process from the provisions of Chapter 103, Hawaii Revised Statutes.

Your Committee on Conference has amended the bill by:

- (1) Removing all material except the repeal of Act 302, Session Laws of Hawaii, 1991, and the lapse of the unexpended balance of the appropriation in that Act; and
- (2) Making technical, non-substantive revisions for purposes of style and clarity.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3179, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3179, H.D. 2, S.D. 1, C.D. 1.

Senators Yamasaki, Blair, Hagino, Matsuura and Koki.
Managers on the part of the Senate.

Representatives Metcalf, Souki, Amaral, Morihara, Tajiri, Takamine, Yonamine and Ward.
Managers on the part of the House.

Representatives Tajiri and Yonamine did not sign the report.

Conf. Com. Rep. No. 134 on H.B. No. 3658

The purpose of this bill is to:

- (1) Require the memorial to the veterans of the Korean and Vietnam conflicts to be constructed on the Ewa lawn of the State Capitol;
- (2) Require that the proportions of the memorial be consistent with the size of existing structures in the area, such as the statues of Queen Liliuokalani and Father Damien;
- (3) Require that the design of the memorial utilize the natural assets of the site, with secluded areas of wall and trees for purposes of remembrance and meditation;
- (4) Specify that the Commission on War Memorials (Commission) has until September 30, 1992, to finalize a design for the memorial that meets the criteria set forth in the bill;
- (5) Require the Department of Land and Natural Resources to solicit the participation of all veterans' organizations, including veterans of the Korean and Vietnam conflicts, in the planning and design of the war memorial hall within the Aiea (Rainbow) bay state recreation area, as proposed in the master plan;
- (6) Clarify that the Commission is the Veterans Memorial Commission in Section 6E-44, Hawaii Revised Statutes; and
- (7) Appropriates an unspecified sum to the Department of Accounting and General Services, for fiscal year 1992-1993, to carry out the purposes of this bill as they relate to the memorial to the veterans of the Korean and Vietnam conflicts.

Your Committee on Conference fully recognizes the sacrifices made by Hawaii's sons and daughters that served in the Korean and Vietnam wars and attaches great importance to the urgent need in constructing memorials honoring these brave men and women. Moreover, your Committee on Conference also recognizes that the construction of these memorials is a very emotional issue that touches the hearts of many Hawaii residents and strongly encourages statewide public participation and input with regards to the planning, design, and construction of these memorials. After much discussion on all relevant issues on this matter, your Committee on Conference has amended this bill by:

- (1) Requiring that the height of the memorial not exceed 20 feet, keeping in proportion with other statuary located in the immediate area;
- (2) Establishing that the Veterans Memorial Commission shall have ninety days after the effective date of this Act to finalize a design for the memorial that meets the criteria set forth in Section 1 of this measure;
- (3) Requiring the Commission to submit the design to the Veterans Memorial Review Board (Board) established in Section 3 of this bill;
- (4) Requiring the Commission to consider the suitability of the proposals of the seven finalists of the original design competition to the criteria set forth in Section 1 of this measure, and to consult with all interested veterans' and community groups;
- (5) Providing that if the Commission fails to submit a design to the review board within ninety days after the effective date of this Act, or ceases its work prior to that deadline, then the Department of Accounting and General Services shall submit a final design as provided in Section 3;
- (6) Establishing within the Department of Accounting and General Services for administrative purposes only, a temporary Veterans Memorial Review Board comprised of only five members. Three of the members shall be appointed by the Governor, one member shall be appointed by the Speaker of the House, and one member shall be appointed by the President of the Senate. Members appointed to the Board shall at least include veterans of the Korean and Vietnam conflicts, members with expertise in the field of architecture, and a representative from Neighborhood Board Number 13;
- (7) Establishing that the Board's function shall be to monitor and review the work of the Commission in developing the design and to approve or disapprove the final design of the memorial submitted by the Commission or the Department of Accounting and General Services in accordance with Section 3;
- (8) Requiring the Board's decision to be rendered within seven days of a timely submission by the Commission;
- (9) Requiring that approval be predicated upon a finding that the design and its selection conform to the criteria set forth in Sections 1 and 2 of this bill;
- (10) Mandating that if the Board disapproves the submitted design, or if the Commission ceases its work or fails to meet the deadline established in Section 2, then the Department of Accounting and General Services shall submit a final design within thirty days after the date of disapproval or the date it assumes responsibility from the Commission;
- (11) Mandating that the Board cease to exist following its approval of a final design for the memorial;
- (12) Adding language allowing for the lapsing of the general obligations bonds appropriation;
- (13) Identifying the general obligations bonds allowed to lapse;
- (14) Adding language specifying that \$840,000 are appropriated out of the general obligations bonds to construct the memorial; and
- (15) Making technical, nonsubstantive changes for the purposes of clarity, style, and consistency.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3658, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3658, S.D. 2, C.D. 1.

Senators Yamasaki, Cobb, Crozier, Iwase, Kobayashi, A., Mizuguchi and Koki.
Managers on the part of the Senate.

Senator Iwase did not sign the report.

Representatives Metcalf, Souki, Amaral, Chang, Hagino, Hiraki, Say and Thielen.
Managers on the part of the House.

Representatives Chang and Hagino did not sign the report.

Conf. Com. Rep. No. 135 on H.B. No. 1817

The purpose of this bill is to address a grave threat to essential public services and the State's economy as a result of a disruption in the continued supply of heavy fuel oil by interisland tank barge shipment. The bill is designed to resolve the problem created by the risk of liability assigned under state and federal law for an ocean spill of heavy fuel oil in two ways:

- (1) To modify existing state law so that state law no longer creates unlimited liability for a heavy fuel oil spill from a barge shipping such fuel interisland; and
- (2) To provide sufficient opportunity and incentives, in light of the current commercial unavailability of heavy fuel oil, for the nonfossil fuel producers and the neighbor island public utilities to renegotiate the supply contracts by which utilities acquire power from nonfossil fuel producers.

Because of its unique geographical location, Hawaii is dependent on shipments of oil and other petroleum products shipped in oil transport vessels to meet its energy needs. To reduce dependence on domestic and imported sources of oil, the electric utilities in the counties of Kauai, Maui, and Hawaii purchase thirty-six, nineteen, and twenty-six percent, respectively, of the electrical energy consumed in those counties from nonfossil fuel producers using bagasse processed and burned at local sugar mills as the primary fuel source. Approximately seven hundred thousand barrels of heavy fuel oil are used annually by the nonfossil fuel producers to generate electricity when bagasse is not available.

The federal Oil Pollution Act of 1990, P.L. 101-380, and Hawaii's Environmental Response Law, Hawaii Revised Statutes ("HRS") chapter 128D, impose unlimited liability for certain accidents such as oil spills on shippers and other handlers of oil and petroleum products operating in waters of the State. As a result of this unlimited liability and the new kinds of damages that may be recovered for spills under these laws, shippers have announced their unwillingness to continue shipping heavy fuel oil interisland.

Hawaii's nonfossil fuel producers are directly affected by Pacific Resources, Inc.'s ("PRI") recent announcement that it will continue to supply, but not transport, heavy fuel oil to neighbor island sugar companies beyond March 31, 1992, due to its liability exposure under state and federal laws. PRI's decision leaves Hawaiian Tug and Barge ("HT&B"), which is still contractually obligated to transport fuel for the Hawaiian Electric Light Company, Inc. ("HELCO") and Maui Electric Company, Ltd. ("MECO") utilities, as the only interisland shipper of heavy fuel oil.

HT&B has warned that it, too, may discontinue its interisland transportation of heavy fuel oil when its contract with neighbor island utilities on Maui and Hawaii expires at the end of 1993. HT&B has offered that, if the nonfossil fuel producers are willing to indemnify HT&B on a pro rata basis for the risks associated with the additional liability attributable to the nonfossil fuel producers' shipments, HT&B will haul the nonfossil fuel producers' oil temporarily, on a space-available basis, along with its weekly shipments to Maui and Big Island electric companies. In addition, HT&B has offered to begin shipments of fuel oil to Kauai on the same terms. Thus far, the nonfossil fuel producers have been unwilling and/or unable to indemnify HT&B.

In recognition of this emergency situation, your Committee has added section 1 of the bill which provides a limitation on liability for heavy oil spills from barge shipments which are subject to the Oil Pollution Act of 1990 and which have a capacity of not more than 60,000 barrels of heavy fuel oil. Under section 1, the liability for such a spill under state law is limited to a maximum of \$700,000,000.00, the limits of HT&B's present insurance, and, your Committee believes, a reasonable limit on liability, regardless of actual insurance coverage. A \$700,000,000 limitation on liability applies only to those shipments subject to the Oil Pollution Act of 1990 because that act has an emergency response fund of \$1,000,000,000 which is available in the event of a spill, thereby assuring that there are adequate financial resources available to respond to any emergency.

Your Committee has provided that section 1's limitation on liability provision will expire on June 30, 1996 in order not to require the utilities to commence the costly permitting process prior to the close of the 1993 session of the Legislature, when the need for the utilities to convert to an alternate fuel will be clarified. Your Committee understands that air monitoring requires approximately one year, the modeling in support of an air permit application would require six months, regulatory review would involve eighteen months, and construction is expected to take about six months. Inasmuch as the cost of converting existing generation facilities is expected to exceed \$10 million, the expiration date of June 30, 1996, will permit the decision and conversion process to take place in an orderly manner following the 1993 legislative session.

In further recognition of this emergency, section 3 of the bill specifically addresses the electric power supply problem created by the unavailability of heavy fuel oil on the neighbor islands. As discussed above, the unavailability of heavy fuel oil has its source in the environmental laws. Section 3 of the bill gives the Public Utilities Commission ("PUC") new authority which will permit the neighbor island nonfossil fuel producers to continue generating electricity when biomass products are unavailable by using alternatives to heavy fuel oil. These alternative fuel sources, typically diesel fuel or coal, are more expensive than heavy fuel oil. Section 3 allows for the increased cost of such fuel to be borne by ratepayers.

Your Committee is mindful of the emergency circumstances that underlie this bill and finds that serious power outages, adversely affecting the health, safety, and welfare of the people of this State, will occur in the absence of a legislative solution that will allow the nonfossil fuel producers' additional fuel costs to be passed on.

Your Committee is aware of the existing power purchase contracts between the utilities and the nonfossil fuel producers. While the validity of those contracts is in question, in the face of the commercial unavailability of the underlying fuel source, this bill is designed to not impermissibly impair those contracts. Rather, this bill seeks to leave those contractual arrangements intact, or to permit mutually agreeable modifications, and provide, subject to the limitations in the bill, a mechanism so that the additional expense incurred by the nonfossil fuel producer burning more expensive fuels can be borne by the ratepayers.

It may be, however, that the utility and the nonfossil fuel producer are unable to come to an agreement. In that event, and in the event that the PUC affirmatively finds the circumstances of subsection (a) of section 3 to exist, nothing in the bill prevents the PUC from directing the utility to purchase power from the nonfossil fuel producer on the terms directed by the PUC. The emergency situation that may otherwise result requires that the PUC do no less.

Your Committee finds that sections 2 and 3 of the bill are a necessary response to the threat that neighbor island nonfossil fuel producers will no longer have access to heavy fuel oil, a fuel which intermittently powers some of the nonfossil fuel producers' generators. Sections 2 and 3 of the bill provide the nonfossil fuel producers with the incentive and the opportunity to continue to supply energy through use of alternative fuels, where the additional cost of the alternative fuel might otherwise be prohibitive.

It is equally important to ensure that ratepayers are not made to suffer any more than is absolutely necessary or fair as a consequence of this emergency. Your Committee finds that, in order to protect the ratepayer, the bill makes it clear that:

- (1) Any premium paid above the rate previously approved or prescribed by the PUC will be limited to the nonfossil fuel producer's increased direct cost of fuel; and
- (2) Any premium will be reduced or eliminated if the utility's avoided cost payment rate increases more than the additional cost incurred by the producer. Ratepayer interests are further protected by the bill's requirement that nonfossil fuel producers must provide satisfactory documentation to justify any premium that they receive.

Finally, ratepayers are protected by the provision requiring that sections 2 and 3 of the bill expire on June 30, 1993, leaving the public utility and the nonfossil fuel producer in the same commercial and competitive positions they were in prior to the onset of this threat to public services.

Sections 2 and 3 of the bill reflect an extensive rewrite of the bill's prior drafts. Your Committee has provided that the additional fuel cost paid by the nonfossil fuel producers be passed on, through the utilities, to ratepayers by way of an automatic adjustment clause.

Several of the subsections refer to heavy fuel oil as "unavailable." Subsection (a)(2), for instance, requires that the PUC must determine that heavy fuel oil is and will presumably continue to be unavailable to the nonfossil fuel producer before a new or modified contract can be approved. By "unavailable," your Committee means only to suggest "commercial unavailability," that is that the product, in this case heavy fuel oil, has become significantly more expensive than either party anticipated as a possibility when entering into the underlying contract. "Commercial impracticability" serves as a similar standard.

Subsection (a)(3)(B) requires that, before the newly agreed-to rate can go into effect, the PUC must find that the payment of a rate in excess of the rate previously approved or prescribed by the PUC is reasonably necessary for the public utility to provide a "reliable supply" of electricity to its customers. Your Committee finds that it is specifically not the intent of this subsection to permit the public utility or the PUC the opportunity to reevaluate an earlier decision to enter into a purchased power contract with a nonfossil fuel producer, either on the basis of the public utility's current mix of resources or a reconsideration of the wisdom of using the underlying resource. This emergency will not serve as the opportunity by which the public utility may justify terminating any previously agreed-to nonfossil fuel production unless the nonfossil fuel producer is unable or unwilling to renegotiate the purchased power contract in accord with the terms set out in the bill.

Subsection (a)(5) requires that, before the newly agreed-to rate can go into effect, the PUC must find that the nonfossil fuel sources for the generation of energy will continue at "normal levels." Similarly, subsection (b) requires that the higher rate paid under subsection (a) is applicable only to the percentage of the energy that is "normally produced" by the nonfossil fuel producer and supplied to the public utility from heavy fuel oil. By "normal levels", your Committee intends only that the use of, and recovery of the expense associated with, more expensive lighter fuels not serve as the basis for nonfossil fuel producers to unexpectedly and significantly increase their power production.

Subsection (a)(5) also makes it clear that nonfossil fuel producers must continue in their current non-energy-related business and continue to produce energy from nonfossil fuel sources in order to qualify for the increased fuel cost premium. Your Committee finds specifically that this bill is not intended to provide a subsidy, paid by ratepayers, to encourage sugar companies who are nonfossil fuel producers, to expand their power production capability.

Subsection (b) reflects your Committee's intent that the nonfossil fuel producer must file an application with the PUC within 30 days of its switch to higher priced fuel, and provide written notice to the PUC, the consumer advocate, and the public utility before it may recover for those higher fuel costs. If a nonfossil fuel producer files an application with the PUC more than thirty days after its switch to higher priced fuels, it may only recover those higher fuel costs incurred in the thirty days prior to giving notice. If a nonfossil fuel producer should switch to a higher priced fuel prior to the effective date of this act, pursuant to section 5, it may nonetheless recover those costs, subject to the notice requirements of subsection (b).

Your Committee has determined that it would be unwise to include in the bill any provision permitting the nonfossil fuel producer to recover from the public utility, and ultimately the ratepayer, for any increase in the nonfossil fuel producer's capital costs associated with re-tooling or modifying the nonfossil fuel producer's generating system. Your Committee believes that guaranteeing the nonfossil fuel producers the increased cost of their fuel is sufficient incentive to continue producing power.

While some of the nonfossil fuel producers will incur capital costs associated with retrofitting their generation systems to accommodate lighter fuels, those improvements will generally have a significantly longer life than the emergency period anticipated by the bill. Allocating the risk of an unforeseen rise in fuel prices in the underlying utility/nonfossil fuel producer contract to the utility's ratepayers may be fair, but allocating the risk associated with the resulting need to make long-term capital improvements is not.

Your Committee is also mindful that state loan programs exist (e.g., agricultural loan and capital loan programs) which might provide assistance to nonfossil fuel producers shifting over to higher-priced fuel. Your Committee anticipates that the administrators of those loan programs will consider any application by a nonfossil fuel producer with care.

Your Committee intends that a nonfossil fuel producer shall carefully review its options for fuel alternatives. It may be appropriate for the PUC to allow recovery of the carrying costs associated with a fuel source if doing so would allow the nonfossil fuel producer to purchase a less expensive fuel.

Your Committee has determined not to include specific or detailed reference to the process by which a new or modified utility/nonfossil fuel producer contract is approved by the PUC. Your Committee finds that, with the direction provided in subsection (e) that "the commission shall make every effort to complete its deliberations and issue its decision as expeditiously as possible," the sense of the Legislature that this represents an emergency situation which requires prompt attention by the PUC has been conveyed. Taking into account the legislative direction, the PUC shall nevertheless have the discretion to manage its calendar as it deems most proper in the circumstance.

Nothing in the bill prohibits or is intended to discourage nonfossil fuel producers, utilities, or the consumer advocate from petitioning the PUC to exercise its newly acquired emergency powers. Your Committee intends that, in the event that the utility and the nonfossil fuel producer are unable to agree on a new or modified contract under the terms described, any of the parties to the contract, the consumer advocate, or the PUC itself may initiate proceedings to address the situation.

Your Committee intends that the PUC, in its discretion, may allocate any higher rate paid by a utility under subsection (a) on any basis that the PUC deems reasonable and consistent with this bill. Included among the allocation options that the PUC should consider are allocations in accordance with an increase paid by the ratepayer's utility (e.g., Maui ratepayers pay increases related to increases in MECO payments) and allocations on a statewide basis (e.g., increases in MECO payments are paid for by ratepayers on all islands), subject to the conditions set forth in subsection (d) of section 3 of the bill.

Under the bill, the PUC is able to fashion statewide relief for the increase reflecting the higher rate in whatever manner it deems advisable under the circumstances stated. Your Committee anticipates that, when fashioning statewide relief, the PUC should consider the circumstances of those in the greatest need (e.g., the poor and the elderly) on those other islands allocated a portion of the higher rate. Further, in fashioning statewide relief, your Committee anticipates that the PUC will allocate the higher rate in a manner so that overall rates are made more equal.

Finally, it is not your Committee's intent that any of the cost recovery programs described herein or adopted hereunder should delay nonfossil fuel producers and/or utilities from recovering the additional costs associated with higher priced fuels.

In addition to the foregoing amendments, technical, nonsubstantive revisions have been made for the purposes of style and clarity.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1817, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1817, S.D. 2, C.D. 1.

Senators Chang, Levin, Solomon and Reed.
Managers on the part of the Senate.

Representatives Hiraki, Metcalf, Amaral, Hagino, Morihara, Young and Thielen.
Managers on the part of the House.

Representative Morihara did not sign the report.

Conf. Com. Rep. No. 136 on H.B. No. 2320

The purpose of this bill is to appropriate funds out of the general revenues to conduct a statewide household hazardous waste collection project.

Your Committee on Conference finds that the presence of hazardous waste in homes is a potential danger to the occupants, and that improper disposal contaminates our landfills and poses a danger to refuse collectors.

Your Committee on Conference has amended this bill by adding a new section stating the reasons why and the amount and rate by which the appropriation contained in this bill exceeds the state spending limit to comply with constitutional and statutory requirements.

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

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2320, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2320, S.D. 1, C.D. 1.

Senators Yamasaki, Chang, Hagino, Levin and George.
Managers on the part of the Senate.

Representatives Hiraki, Souki, Alcon, Chang, Santiago, Yonamine, Young and Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 137 on H.B. No. 3062

The purpose of this bill, as received by your Committee, is to appropriate undetermined sums of money for fiscal year 1992-1993 for deposit into the natural area reserve fund and the forest stewardship fund.

This bill also amends Chapter 195, Hawaii Revised Statutes, by requiring a public hearing before terminating state funding for a management plan approved by the board under the natural area partnership program, and by clarifying that the permanent dedication of a conservation easement or transfer of fee title may be revoked only if state funding is terminated without the concurrence of the landowner and the cooperating entity.

Your Committee finds that it is unnecessary to include an appropriations section in this bill as monies are already earmarked for the natural area partnership program in the budget.

Your Committee is cautious regarding dedicated funding in these times of budget cutbacks and anticipated shortfalls in revenue collections. However, dedicated funding should not be categorically ruled out despite being inappropriate this year.

Your Committee has amended this measure by:

- (1) Deleting the word "and" and inserting a comma on page 1, line 6;
- (2) Deleting the word "or" and inserting the word "and" on page 2, line 18;
- (3) Inserting the phrase "prepared by the cooperating entity or landowner and" on page 3, lines 2-3;
- (4) Deleting of language "The board may [approve alteration] alter the management plan to adapt to current conditions[. Amendments to the management plan]; provided that any amendment shall be made available for public review;" on page 4, lines 9-12;
- (5) Deleting the appropriations language of the bill;
- (6) Renumbering the sections; and
- (7) Making technical, nonsubstantive changes for the purpose of accuracy.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3062, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3062, H.D. 2, S.D. 2, C.D. 1.

Senators Yamasaki, Hagino, Holt, Solomon and George.
Managers on the part of the Senate.

Senator George did not sign the report.

Representatives Hiraki, Souki, Baker, Morihara, Santiago, Tajiri, Young and Marumoto.
Managers on the part of the House.

Representative Morihara did not sign the report.

Conf. Com. Rep. No. 138 on H.B. No. 3134

The purpose of this Act is to enhance the energy emergency response capability of the State in the event of a petroleum shortage by having the Department of Business, Economic Development, and Tourism prepare a comprehensive and integrated State Energy Emergency Preparedness Plan to be implemented in the event of a shortage or anticipated shortage of the State's petroleum supply.

Your Committee on Conference recognizes the dependence of the State of Hawaii on imported petroleum products. Your Committee finds that the absence of a State Energy Emergency Preparedness Plan in case of an anticipated or actual petroleum shortage will have negative impacts on the lives of the people and the economy of the State.

Your Committee on Conference has amended this bill by incorporating the nonsubstantive changes proposed in the Senate version.

Your Committee has also amended this bill by adding a new section stating the reasons why and the amount and rate by which the appropriation contained in this bill exceeds the state spending limit to comply with constitutional and statutory requirements.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3134, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3134, H.D. 2, S.D. 1, C.D. 1.

Senators Yamasaki, Aki, Kobayashi, A., Matsuura and George.
Managers on the part of the Senate.

Senator Aki did not sign the report.

Representatives Hiraki, Morihara, Ihara Jr., Souki, Hashimoto, Kawakami, Santiago and Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 139 on H.B. No. 602

Currently, the Executive Branch of the State, pursuant to section 77-13(d), Hawaii Revised Statutes, may employ sixteen Super Class (SC's) positions, not counting physicians and psychiatrists for whom there is no limit. The Judiciary, on the other hand, is allocated only one SC position and is not entitled to use this classification for medical professionalizes. This bill would allow the Judiciary two SC positions and unlimited physicians or psychiatrist classified at the SC level.

Your Committee on Conference also understands that currently the Circuit Court of the First Circuit has a tremendous backlog of cases waiting to be decided. The procedure that the Judiciary uses to help alleviate this backlog is to rotate district court judges up to circuit court and have per diem judges hear district court judges' cases. Your Committee on Conference is not entirely agreeable to this method of operations but recognizes that the Judiciary is doing its best to meet this problem with what little it has. Therefore, in recognizing this dilemma, this bill is amended by:

- (1) Establishing eight additional judgeships for the Circuit Court of the First Circuit;
- (2) Establishing an additional judgeship for the intermediate court of appeals;
- (3) Amending Section 604-8, Hawaii Revised Statutes, to allow trials by juries for violations occurring under Section 291-4, to be heard in the District Court;
- (4) Requesting that the Judiciary submit to the Legislature, prior to convening of the 1993 Regular Session, a comprehensive plan for:
 - (a) The reduction of the use of per diem judges to the minimum level necessary for the operation of the Judiciary;
 - (b) An analysis of the benefits and problems that would occur if per diem judges were selected from lists presented by the Judicial Selection Commission, in the same manner as regularly appointed district court judges; and
- (4) Making, technical, nonsubstantive changes for the purposes of clarity, style and consistency.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 602, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 602, H.D. 2, S.D. 1, C.D. 1.

Senators Blair, Yamasaki, Hagino, Holt, Mizuguchi and Koki.
Managers on the part of the Senate.

Senator Holt did not sign the report.

Representatives Metcalf, Say, Alcon, Amaral, Oshiro, Tajiri, Takamine and Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 140 on H.B. No. 2571

The purpose of this bill is to amend the state public contracts law by increasing the threshold level at which public contracts are subject to formal bidding requirements, and adjusting the requirements for informal bids and performance bonds.

Your Committee finds, however, that while adjustments to the obsolete formal bid thresholds are both necessary and long overdue, this problem area is symbolic of the changes that must be made in the State's procurement as a whole--changes that are long overdue for a law that has become obsolete.

As a first step in what the conferees envision as a long range plan to substantially overhaul the State's entire law and procurement system, your Committee finds that there are components of the American Bar Association's Model Procurement Code and recommendations contained in the Lallatin and Associates study that can be implemented now, and that your Committee believes will show immediate, beneficial results in improving efficiency and accountability in the State procurement process.

Accordingly, your Committee has amended this bill substantially. As amended, the bill adds a total of forty new sections to the public contracts law that, among other things, establish procedures for invitations for bids, technical offers and competitive sealed proposals in multi-step bidding, single step sealed bidding, sole source contracts, the establishment of a contract compliance audit unit, the status of procurement files as government (i.e., public) records, use of bidder lists, liability for excessive expenditures, small purchases, emergency procurement, and the requirement that all branches of state government and the counties adopt rules to implement procurement requirements.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2571, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. 2571, H.D. 2, S.D. 2, C.D. 1.

Senators Yamasaki, Iwase, Mizuguchi, Kobayashi, A., and Koki.
Managers on the part of the Senate.

Representatives Bellinger, Souki, Baker, Kanoho, Tajiri and Anderson.
Managers on the part of the House.

Conf. Com. Rep. No. 141 on H.B. No. 3787

The purpose of this Act is to set forth general guidelines for the adoption of impact fee ordinances and to establish uniform provisions for county impact fee ordinances.

Your Committee has amended this measure by:

- (1) Requiring that the data sources and methodology upon which needs assessments and impact fees are based be set forth in the needs assessment study;
- (2) Changing the effective date to take effect upon its approval; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and style.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3787, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3787, H.D. 1, S.D. 1, C.D. 1.

Senators Holt, Ikeda, Iwase and Koki.
Managers on the part of the Senate.

Senator Koki did not sign the report.

Representatives Souki, Alcon, Chang, Say, Yonamine and Marumoto.
Managers on the part of the House.

Conf. Com. Rep. No. 142 on H.B. No. 3457

The purpose of this bill is to require the Comptroller to sell surplus state personal property to the general public. The announcement would be given in a newspaper for three weeks and may be posted in conspicuous places. Proceeds of the sale would be disposed of pursuant to Section 106-23, Hawaii Revised Statutes.

Your Committee has amended this bill by:

- (1) Specifying that surplus state personal property will be offered for sale to the general public by bid or auction, after which remaining property will be sold at retail;
- (2) Clarifying that the Comptroller shall "announce" rather than "give notice" regarding the disposition of surplus state personal property; and
- (3) Making technical, nonsubstantive amendments for the purposes of style and clarity.

Your Committee directs the Department of Accounting and General Services to determine the costs for handling surplus property and to submit its findings to the Legislature no less than twenty days prior to the convening of the 1993 Regular Session.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3457, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3457, H.D. 1, S.D. 1, C.D. 1.

Senators Mizuguchi, Crozier and Koki.
Managers on the part of the Senate.

Senator Koki did not sign the report.

Representatives Souki, Alcon, Duldulao, Ige, M., and Marumoto.
Managers on the part of the House.

Conf. Com. Rep. No. 143 on H.B. No. 3838

The purpose of this bill is to enable the Department of Health to meet the requirements of the federal Clean Air Act Amendments of 1990.

As received, this bill defines air pollutant as having the same meaning as in the Clean Air Act, 42 United States Code 7608 (g) and any substance designated as such by rules adopted under chapter 91. Because this citation is incorrect, your Committee has amended this bill by replacing the phrase, "42 United States Code 7608 (g)", with "42 United States Code §7602 (g)".

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3838, H.D. 2, S.D. 2, C.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3838, H.D. 2, S.D. 2, C.D. 2.

Senators Yamasaki, Chang, Hagino, Levin and George.

Managers on the part of the Senate.

Representatives Hiraki, Souki, Chang, Hagino, Kanoho, Morihara and Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 144 on H.B. No. 3934

The purpose of this bill is to appropriate funds for fiscal year 1992-1993 to establish a two-year pilot program called the Hawaii Young Scholars Program (program) within the Department of Education (DOE). Specifically, the bill:

- (1) Authorizes the DOE to implement the Hawaii Young Scholars Program in five selected elementary schools throughout the State, beginning with the third grade in the first year of the program, and then the fourth grade in the second year of the program;
- (2) Allows the DOE to coordinate with the University of Hawaii in the design of the program;
- (3) Authorizes the DOE to provide a contract of agreement to each economically disadvantaged child and the child's parents or guardians that is consistent with school/community-based management; and
- (4) Requires the DOE to submit a report on the performance of the Hawaii Young Scholars Program and its recommendations with regard to the program to the Legislature, twenty days prior to the convening of the Regular Session of 1994.

Your Committee recognizes the powerful effects of education in shaping the lives of individuals. In this regard, your Committee acknowledges the importance of providing educational opportunities, incentives, and support to Hawaii's youth, particularly to those youths who are disadvantaged.

One way to lessen the disparity among certain ethnic groups who are less inclined to pursue a higher education is to instill the positive rewards of education in individuals from an early age. Providing a stimulating, positive, and nurturing educational environment that reinforces academic excellence is highly influential in encouraging students to make lifelong learning a personal quest and to motivate students to pursue higher levels of educational attainment.

Your Committee understands the fiscal constraints being imposed on the state budget and on state programs and services due to the downturn in general revenues. However, your Committee notes the positive rewards that the Hawaii Young Scholars Program can have on students' educational progress and on the quality of public education, and therefore, intends that this bill be a vehicle which allows the DOE to establish the two-year pilot program. It is the understanding of your Committee that this program is not to conflict with or replace any existing program. It is also the understanding of your Committee that the Hawaii Young Scholars Program will be funded entirely through existing DOE funds and other private sources. Furthermore, future appropriations will not be required for this two-year pilot project.

Accordingly, your Committee has amended this bill by:

- (1) Deleting the appropriation section from the bill;
- (2) Allowing, rather than authorizing, the DOE to establish the Hawaii Young Scholars Program;
- (3) Using permissive rather than mandatory language throughout the bill, which conforms to language that allows the DOE to establish the Hawaii Young Scholars Program; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and style.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3934, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3934, H.D. 2, S.D. 2, C.D. 1.

Senators Yamasaki, Iwase, Kobayashi, B., McCartney and George.
Managers on the part of the Senate.

Senator Kobayashi, B., did not sign the report.

Representatives Tam, Say, Duldulao, Isbell, Kawakami, Shon, Stegmaier and O'Kieffe.
Managers on the part of the House.

Conf. Com. Rep. No. 145 on H.B. No. 521

The purpose of this bill is to authorize the issuance of general obligation bonds and to declare findings that the total amount of principal and interest, estimated for such bonds authorized but unissued and calculated for all bonds issued and outstanding, will not cause the debt limit to be exceeded at the time of issuance.

Article VII, section 13, of the Constitution of the State of Hawaii, requires the Legislature to include a declaration of findings in every general law authorizing the issuance of general obligation bonds, which shall declare the issuance of state bonds authorized will not cause the debt limit to be exceeded at the time of issuance.

Your Committee has amended this bill by:

- (1) Inserting language explaining the portion of the amount derived from the issuance of bonds constituting instruments of indebtedness under which the State incurs a contingent liability as a guarantor must be included in determining the power of the State to issue general obligation bonds;
- (2) Inserting the appropriate amounts provided by the Department of Budget and Finance; and
- (3) Making technical, nonsubstantive amendments for the purposes of style and clarity.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 521, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 521, H.D. 1, S.D. 1, C.D. 1.

Senators Yamasaki, Aki, Hagino, Iwase, Kobayashi, A., Kobayashi, B., Levin, Solomon and George.
Managers on the part of the Senate.

Representatives Souki, Alcon, Baker, Chang, Duldulao, Ige, M., Kanoho, Kawakami, Say, Tajiri, Yonamine, Anderson and Marumoto.
Managers on the part of the House.

Conf. Com. Rep. No. 146 on H.B. No. 2454 (Majority)

The purpose of this bill is to provide the necessary supplemental appropriations and authorizations for State programs and services for the 1991-1993 fiscal biennium by amending the General Appropriations Act of 1991.

FINANCIAL AND BUDGETARY OVERVIEW

Background

During the past five years, Hawaii was fortunate to realize double digit growth in general revenues that resulted in additional resources for many new programs, expansion of existing programs, and initiation of myriad capital improvement projects.

But, socio-economic changes nationally and worldwide during the last two years have placed a distressing set of strains on Hawaii's financial structure and revenues.

Last year, in fashioning the State Executive Budget, as well as the Judiciary Budget and the Office of Hawaiian Affairs (OHA) Budget for the 1991-1993 fiscal biennium, the Legislature was constrained by fiscal uncertainties triggered by the Persian Gulf War and the national recession. As a result, in all three Budgets, the 1991 Legislature focused on meeting only the most urgent needs of our state, while maintaining essential economic and social safeguards.

This year, the Legislature again began its deliberations facing a number of major fiscal uncertainties. Given the effects of the slowdowns in tourism and construction and a national economic recession, as well as increasing federal mandates without the concomitant federal moneys for implementation, the most important issue facing the 1992 Legislature has been declining revenues.

Financial Challenges

Hawaii is facing and will continue to face major financial challenges that will require creative responses, cutbacks in funding, and scaling back of programs to ensure that Hawaii remains fiscally solvent.

The first major financial challenge is the national recession that has affected many of states on the Mainland. As a result of the recession, unbalanced budgets and drastic cuts in public programs and services have been the norm across the Nation. Until this fiscal biennium, Hawaii has been able to avoid a similar fate. But the effects of the national recession has now reached Hawaii.

The second major financial challenge is the 1991 United States military action in the Middle East. Although the Persian Gulf War came to a quick and decisive end, the lingering effects of that War on Hawaii's fragile and cyclical tourism industry continues to be felt to this day.

The third major financial challenge is the shifts in Japan's investment policy. The slowdown of the Japanese economy and changes in its monetary and investment policies pose a great potential danger to the State's economy.

The final major financial challenge is the additional burdens being placed on Hawaii by the federal government. The federal deficit-reduction law has shifted many of the costs formerly paid by the federal government to the states. In addition, the continuing federal demand placed on the states to provide or expand services without the concomitant federal dollars has been a source of financial woes for all the states. These federal mandates are especially onerous for Hawaii's State government because in Hawaii, the State government is responsible for a disproportionate number of public services that are typically handled by local governments in other states. For example, the State maintains the public education system--which constitutes almost 30 percent of the State's total operating expenditures--as well as the correctional system, the court system, and many of the social services that are all usually handled by local governments.

Declining Tax Revenues

As a result of these major financial challenges in the last half of 1991, tax revenue reports provided early signs of state receipts falling below revenue projections. Moreover, presentations by Hawaii's noted economists at the start of the 1992 legislative session indicated that the state economy had shifted to a much lower rate of growth than had been experienced in prior years.

This was reflected in the January 10, 1992, report of the Council on Revenues, which revised downward its September 1991 forecast of state revenue growth from 10.0 percent in fiscal year 1991-1992 and 4.9 percent in fiscal year 1992-1993 to 6.0 percent and 2.7 percent, respectively. In their March 1992 report, the Council indicated that actual general revenue collections were below earlier projections, and their estimate was again revised downward to 2.4 percent and 1.1 percent, respectively. The impact of the March revision is that over \$350 million less in general fund collections is expected for the biennium than was projected in January.

Financial Plan: NO NEW TAXES

Your Committee finds that the fiscal integrity of the State is fundamental to sound and responsible government. To meet the \$350 million shortfall while ensuring the State's fiscal solvency, your Committee adopted the stance that this year's Supplemental Budget would be developed with NO TAX INCREASES. Instead, your Committee decided on a broad disciplined approach through:

- (1) Careful budgeting of our dwindling state resources;
- (2) Increasing efficiency of government services; and
- (3) Finding ways to get more revenue through other means, including better investments of our State moneys.

Prudence dictates that State expenditures over the next fiscal year and future fiscal years be approached cautiously with respect to expenditures from the general fund as well as with respect to bond issuance and debt service which have an impact on the general fund. At the same time, the demand for more government services will require the identification of new ways to further maximize productivity and efficiency in the delivery of public services and to maximize the returns on our State investments.

Hawaii is not alone with fiscal woes. Other jurisdictions across the Nation from the Eastern seaboard down to the Gulf Coast through America's "breadbasket" of the Midwest to the Pacific Coast are experiencing budgetary problems. Record unemployment rates, drastic reductions in government services, and astronomical budget deficits are being reported on the Mainland.

Compared to many Mainland jurisdictions, Hawaii is faring quite well. Prudent expenditures and wise investments in prior fiscal years have made this possible. And while your Committee has taken a very cautious approach for the 1992 supplemental year, it is the hope that Hawaii will continue to weather this national crisis and escape the catastrophic calamities being faced by our sister-states.

State Budget Process

Given the increased public interest in this year's three Supplemental Budgets and the state budget process itself, it would be instructive to summarize the financial planning process your Committee went through and completed.

In many respects the basic approach to state budgeting and financial planning is no different than the household budget process average families go through. Admittedly, the State's budget is on a much larger scale and some of the terminology may differ, but the assumptions with regard to income, expenses, and savings are the same.

Like the average family, the State's expenditures, in large part, are constrained by its income or revenues collected. First priority expenditures on the part of the State are earmarked for the fixed costs of government--health and human service statutory requirements, personnel salaries, building maintenance and repair including utility charges, equipment and supplies, and federal program mandates--similar to a family's fixed costs of mortgage or rental payments, auto insurance premiums, health care and insurance, and utilities.

Moreover if after the fixed costs are met, there is additional income, the State, like most families, designates an amount as "savings" to meet those unforeseen emergency expenditures that may arise in the future. And if after "savings" are realized there is still some disposable income available, many families may decide to make unanticipated expenditures on home improvement projects, new furniture, or travel. The State likewise expends additional income, but on a larger scale on program or service expansion, or on new programs or services requested by the public.

To put this discussion into context for the 1992 Supplemental Budget, the State is in the position to meet its fixed costs and earmark a conservative amount of "savings" for future fiscal years to meet unanticipated emergency expenditures which may arise. The State this year does not have the "leftover" funds to expand existing programs, or to establish new programs or services.

This Supplemental Budget should not in and of itself be viewed as the single product of the 1992 Legislature. Rather, this Supplemental Budget document should be viewed as a part of the whole--guiding yet complementary--to all other legislation reviewed, discussed, and acted upon during the 1992 legislative session. Government action is not limited to the appropriations process, and in many instances innovations and policies will be set by legislation which are nonfiscal in nature.

COMMITTEE DELIBERATIONS

Committee's Responsibility

To ensure the fiscal integrity of the State, your Committee carefully deliberated on this Supplemental State Executive Budget bill, as well as the Supplemental Judiciary Budget and OHA Budget bills and all other bills that affect state finances. Were it not for the projected revenue shortfall, your Committee would have been able to give serious consideration to funding many worthwhile programs. But in these uncertain fiscal times, your Committee must act responsibly in meeting a wide range of pressing community needs and concerns.

During deliberations, your Committee had to weigh the uncertainty of our financial future with the immediate needs in certain program areas. Your Committee's decisions in formulating the Supplemental State Executive Budget were characterized by confrontations with economic uncertainties and the harsh realities of limited financial resources. At the same time, your Committee recognizes that fiscal responsibility dictates the identification of new ways to further maximize productivity and efficiency in the delivery of public services. As a result, many difficult decisions had to be made on reducing the requested amounts, and in certain instances not providing funds at all. In this regard, serious consideration was given to ensure that adequate future fiscal resources would be available to maintain existing programs. Your Committee believes that, as difficult as the decisions were, the reductions are justified and constitute a proper course to follow.

Fiscal Responsibility

Your Committee believes that the public has the right to expect that the State's fiscal integrity is maintained, that public funds are expended wisely, and that government operations are executed efficiently.

Because the fiscal integrity of the State is fundamental to sound and responsible government, the impact of the changing economic conditions and other financial developments was closely examined by your Committee.

Moreover, your Committee believes that in these critical economic times, sound judgment and rational decisions must be made and that everyone must be willing to contend with certain services and programs being reduced, or to do without certain services and programs, until the economy improves significantly.

As a result, your Committee acknowledges that the development of the 1992 Supplemental Budget was indeed a challenge this year, insofar as practices and methodologies utilized in prior fiscal years changed dramatically to adjust to Hawaii's austere yet cautiously optimistic economy. Philosophies and patterns with regard to appropriations, expenditures, and the expansion or establishment of new government programs changed dramatically as well.

Each and every service area and department was scrutinized to ensure that state dollars appropriated would be prudently and efficiently spent. Dilemmas with regard to conflicting priorities surfaced, and hard decisions were made.

Moreover, as a consequence of the slowdown of Hawaii's economy over the past two years and the uncertainty of our future financial resources, prudence dictates that all state agencies over the next fiscal year and future fiscal years take a cautious approach regarding future expenditures and program expansions.

Your Committee urges all government agencies to adopt the position that economic uncertainty must be approached with an attitude of fiscal responsibility and constraint.

PROGRAMS AND SERVICES

Priorities

Your Committee has developed an austere Supplementary State Executive Budget that balances the priorities and needs of the people with the finite resources of the State.

As a result, many difficult decisions had to be made. Many worthwhile programs could not be implemented or expanded at this time. This has resulted in the reduction or elimination of funding for various programs which, although desirable, could not be accommodated under this year's fiscal constraints. Instead, to ensure a comprehensive and responsible allocation of dwindling state resources, the budget was produced to meet the most urgent needs of the State and to lay the foundations that will enable Hawaii to meet the challenges of the future. As a result, special attention centered on education as an investment in Hawaii's future and on health and human services to meet the immediate needs of the people most in need of assistance.

Education

As an investment in the future, no major program was given greater scrutiny, consideration, and support than public education. Along with H.B. No. 2123 on governance, S.B. No. 2253 on financial and structural reform, and other educational measures, education was a priority issue this year. Evermindful of the tight budgetary constraints of the state budget, your Committee was compelled to make several hard-hitting and difficult decisions regarding the prioritization of resources and services to public education in Hawaii. Despite these challenges, your Committee worked hard to respond to the myriad of fundamental needs of Hawaii's public schools, while supporting the momentum of educational change and innovation taking place within the community. Your Committee embarked on innovative approaches and pursued new avenues to improve the effectiveness of the public school system in educating Hawaii's youth.

It is widely recognized that basic academic skills are the necessary "building blocks" to educational excellence and achievement. Basic skills set the foundation for greater educational pursuits. A firm grasp of the basic skills learned in school will prepare students to expand their individual abilities and capabilities in other areas of academic interest and pursuit. A firm grasp of basic academic skills will also give students the fundamental tools to make education a lifelong process, and, to the greatest extent possible, prepare students for the personal and work challenges of the future. In light of this, the overriding concern and priority of your Committee during the 1992 legislative session was to reinforce and support existing core courses, programs, and services to students.

Funds were provided to bring direct and responsive educational improvement to students--through the classroom. In lower education, \$6.2 million will be used to purchase textbooks, computers, related computer software, and other essential materials to enhance learning, as well as to purchase equipment for new and existing classrooms. In addition, \$1.8 million was provided to enhance direct instructional services in the elementary grades, at the discretion of the elementary schools.

The powerful and positive effects of a safe, clean, and well-kept school environment on student learning and achievement is acknowledged through the appropriation of approximately \$1.9 million in H.B. No. 3493, H.D. 2, S.D. 2, C.D. 1, for school-level minor repairs and maintenance statewide, of which \$8,000 will be allocated to each of the 236 public schools in the state to respond to repair and maintenance needs of each school in a timely and efficient manner.

Your Committee also recognizes the immediate and pressing need to accommodate increases in student enrollment through the provision of several additional teaching positions and support staff to provide optimum learning opportunities for all students. Special education students will benefit from an additional 230 teacher positions and 33.5 positions to provide diagnostic services for the special education program. Student achievement in the core areas of math, science, language arts, and the social sciences will also be enhanced by the addition of 83 full-time teacher positions.

In a state with a high percentage of working mothers, finding quality, affordable child care services has become a significant of the community. To continue the services of the A+ Program, which has been providing affordable and quality after-school supervision for students enrolled in kindergarten through grade six, your Committee has appropriated \$1.9 million in funds. These funds will be used to provide after-school supervision for children in a stimulating and caring environment and reduce the incidence for latchkey children in the state.

The legislative effort and actions of the 1992 session represents a collaborative effort by various sectors of the community to participate in making education a lifelong process and to participate in Hawaii's future. In large part, those legislative measures affecting education are indicative of the commendable efforts by the public to participate and make a difference in education through the public process. The legislative actions of the 1992 session are largely symbolic of the will and interest of the people to have their voices heard in the decisions affecting education in Hawaii.

The road to educational excellence is winding and continuous. No doubt the road to educational excellence will continue to be fraught with challenge, collaboration, and change, but the road to educational excellence can be realized through a shared response and effort by the community to accommodate and address student and societal needs.

Health and Human Services

Your Committee is committed to providing optimal health care services to ensure the overall well-being of the community. To this end, your Committee focused its efforts on supporting and providing for the continuance of existing health care programs and services, as well as appropriating funds that will guarantee the most benefits to the islandwide community. The importance of providing accessible, affordable, and quality health care services was reaffirmed through legislative action during the 1992 legislative session.

This year, the mental health care needs of the community received considerable public attention. In recognition of the critical importance of support staff in Hawaii's hospitals, \$237,000 was appropriated to provide for the staffing needs of the newly renovated psychiatric unit at Maui Memorial Hospital. Furthermore, to address the grave concerns of the community regarding the mentally handicapped in the State, \$304,000 was appropriated to address the psychiatric service needs of Hawaii's community-based mental health system. Your Committee also demonstrated its commitment to upgrade the care and treatment provided to Hawaii's mentally ill and mentally handicapped through \$737,000 in funding for psychosocial rehabilitation services to chronically mentally ill individuals.

Despite the fiscal constraints imposed on the State Budget and on state programs and services due to the downturn in general revenues, your Committee made every attempt to bring the most benefits to Hawaii's children and elderly population, as these two groups are the crux, and in many cases, the stronghold of Hawaii's families. Your Committee appropriated \$99,000 towards planning and coordination efforts in the children's mental health service system and \$3,870,000 to provide increased funding for developmentally disabled individuals under the Title XIX home and community-based services program.

In addition, \$1.9 million was appropriated to implement the Job Opportunity and Basic Skills (JOBS) program on a statewide basis and \$26.2 million was appropriated to cover anticipated shortfalls in Assistance to Families With Dependent Children (AFDC) and General Assistance payments.

To address the spiraling health care costs of Hawaii's elderly, your Committee looked at ways of maximizing much-needed health care services and benefits to the elderly. Approximately \$95.4 million was appropriated to address the Medicaid shortfall to ensure the availability of high-quality medical services to Hawaii's Medicaid recipients.

Throughout its deliberations, your Committee reaffirmed its commitment to supporting Hawaii's families and to addressing the undue stressors placed on family life. The daily pressures felt by families statewide necessitate the need to support and address the concerns and problems that plague Hawaii's families in a world of challenge and continual

change. This year, \$860,000 was appropriated to strengthen the family structure by continuing and expanding the family center demonstration project.

Preventive health measures designed to ward off the detrimental effects of illness and disease was addressed through the appropriation of \$711,000 to provide the resources necessary to implement universal access to a vaccine immunization program. It is the belief of your Committee that any effort to address and combat the harmful health effects of each member of the community will bring increased benefits and rewards to the entire state population. Your Committee's efforts in the areas of health and human services represent a committed effort to provide for the overall health care needs and well-being of the people of the State.

Other Programs

In addition, other important decisions and considerations of your Committee were made in other program areas.

In the areas of economic development and employment, your Committee continued its commitment to improving Hawaii's economy. Recognizing the importance of tourism to Hawaii's overall economy, your Committee appropriated \$700,000 to expand the marketing campaign of Hawaii on a national and international level. In addition, \$500,000 was provided to continue the Community Based Development Grant and Loan Program. To minimize the effects of the economic downturns and to expand the "employability" of Hawaii's workforce, your Committee has provided \$7 million to continue job assistance services to identified target groups.

In the areas of environment and infrastructure, assistance was provided to a variety of projects. Among them is \$900,000 to the Natural Area Reserves and the Natural Area Partnership Program to continue to protect and manage Hawaii's threatened and endangered plant and animal species. For the acquisition of various county highways and roads on Oahu, Maui, and Hawaii and to ensure that roads are maintained under the State's road standards, \$12.6 million has been provided.

In the areas of public safety, \$1.0 million was provided to provide needed security coverage at various correctional facilities and Hawaii State Hospital. In addition, \$864,000 was appropriated for needed repair and maintenance of correctional facilities.

SUMMARY

Your Committee willingly took on the difficult task of developing the Supplemental State Executive Budget to provide the needed services and programs to the people of Hawaii, while ensuring the State's overall fiscal solvency. Because the fiscal integrity of the State is fundamental to sound and responsible government, your Committee took a cautious approach to all fiscal concerns in light of the current tight revenue projections and the anticipation of slow economic growth in the immediate years ahead.

It was your Committee's responsibility to examine possible options and develop an approach that will be the most feasible, equitable, and of maximum benefit to Hawaii's taxpayers and at the same time, serves to ensure the State's overall fiscal solvency.

In summary, the Supplemental Budget developed by your Committee provides a responsible allocation of valuable, scarce resources to state programs to improve the quality of life for the citizens of Hawaii.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2454, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2454, H.D. 1, S.D. 1, C.D. 1.

Senators Yamasaki, Aki, Hagino, Iwase, Kobayashi, A., Kobayashi, B., Levin, Solomon and George.
Managers on the part of the Senate.

Representatives Souki, Alcon, Baker, Chang, Duldulao, Ige, M., Kanoho, Kawakami, Say, Tajiri, Yonamine, Anderson and Marumoto.
Managers on the part of the House.

Representative Anderson did not concur.

Conf. Com. Rep. No. 147 on H.B. No. 3184

The purpose of this bill is to provide supplemental appropriations to the Office of Hawaiian Affairs (OHA) for the fiscal biennium 1991-1993 by amending Act 301, Session Laws of Hawaii 1991.

FINANCIAL AND BUDGETARY OVERVIEW

During the past five years, Hawaii was fortunate to realize double digit growth in general revenues that resulted in additional resources for many new programs, expansion of existing programs, and initiation of myriad capital improvement projects.

Socio-economic changes nationally and worldwide during the last two years have placed a distressing set of strains on our financial structure and revenues. Last year, in fashioning the OHA Budget, as well as the Executive Budget and the Judiciary Budget for the 1991-1993 fiscal biennium, the Legislature was constrained by fiscal uncertainties triggered by

the Persian Gulf War, the national recession, and changes in Japan's investment policy. As a result, in all three Budgets, the 1991 Legislature focused on meeting only the most urgent needs of our state, while maintaining essential economic and social safeguards.

This year, the Legislature again began its deliberations facing a number of major fiscal uncertainties. Given the effects of the slowdowns in tourism and construction and a national economic recession, as well as increasing federal mandates without the concomitant federal moneys for implementation, the most important issue facing the 1992 Legislature has been declining revenues.

In the last half of 1991, tax revenue reports provided early signs of state receipts falling below revenue projections. Moreover, presentations by Hawaii's noted economists at the start of the 1992 legislative session indicated that the state economy had shifted to a much lower rate of growth than had been experienced in prior years.

This was reflected in the January 10, 1992, report of the Council on Revenues, which revised downward its September 1991 forecast of state revenue growth from 10.0 percent in fiscal year 1991-1992 and 4.9 percent in fiscal year 1992-1993 to 6.0 percent and 2.7 percent, respectively. In their March 1992 report, the Council indicated that actual general revenue collections were below earlier projections, and revised further downward their estimate of revenue growth to 2.4 percent and 1.1 percent, respectively. The impact of the March revision is that over \$350 million less in projected general fund collections is expected for the biennium than was projected in January.

COMMITTEE DELIBERATIONS

Within this fiscal framework, your Committee has carefully reviewed the supplementary budget proposal submitted by OHA, as well as the amendments made by both the House of Representatives and the Senate.

To ensure the fiscal integrity of the State, your Committee carefully deliberated on this supplemental OHA Budget bill, as well as the supplemental Executive Budget and Judiciary Budget bills and all other bills that affect state finances. Were it not for the projected revenue shortfall, your Committee would have been able to give serious consideration to fund many worthwhile programs. But in these uncertain fiscal times, your Committee must act responsibly in meeting a wide range of pressing community needs and concerns.

During deliberations, your Committee had to weigh the uncertainty of Hawaii's financial future with the immediate needs in certain program areas. Your Committee's decisions in formulating the supplemental OHA Budget were characterized by confrontations with economic uncertainties and the harsh realities of limited financial resources. At the same time, your Committee recognizes that fiscal responsibility dictates the identification of new ways to further maximize productivity and efficiency in the delivery of public services. As a result, many difficult decisions had to be made on reducing the requested amounts, and in certain instances not providing funds at all. In this regard, serious consideration was given to ensure that adequate future fiscal resources would be available to maintain existing programs. Your Committee believes that, as difficult as the decisions were, the reductions are justified and constitute a proper course to follow.

Your Committee believes that in these critical economic times, sound judgment and rational decisions must be made and that everyone must be willing to contend with certain services and programs being reduced, or to do without certain services and programs, until the economy improves significantly.

FISCAL RESPONSIBILITY

Your Committee believes that the public has the right to expect that the State's fiscal integrity is maintained, that public funds are expended wisely, and that government operations are executed efficiently.

Your Committee notes with concern the rapid growth of OHA's budget. OHA's budget, over the past three years, has expanded a total of 72 percent, with an annual average increase of 24 percent. This year's supplemental request is illustrative of this rapid escalation: OHA's supplemental request of \$4.7 million represents an additional increase of 70 percent for the 1992-1993 fiscal year.

Your Committee notes that supplemental budget requests are ordinarily intended to fine-tune the biennial budgets enacted in the first session of each new legislature. Supplemental budgets do not usually entail major program expansions. It is incumbent upon the requesting agency to plan well enough to anticipate their needs for two years.

Moreover, as a consequence of the significant slowdown of Hawaii's economy over the past year and the uncertainty of our future financial resources, prudence dictates that all state agencies over the next fiscal year and future fiscal years take a cautious approach regarding future expenditures and program expansions.

Your Committee urges OHA, along with other state agencies, to adopt the position that economic uncertainty must be approached with an attitude of fiscal responsibility and constraint.

PROGRAMS AND SERVICES

Recognizing the important public mission of OHA, along with the Department of Hawaiian Home Lands, to be responsible for the betterment of conditions for native Hawaiians and Hawaiians, your Committee decided to concentrate on four major areas identified to be of foremost concern to native Hawaiians and Hawaiians: health, education, housing, and heritage preservation.

According to health statistics, the Hawaiian community has long been plagued by numerous, chronic health problems. As a group, they suffer from a disproportionate amount of health ills compared to other groups in the state and the nation. Based on the preliminary success of the Waianae Diet Program in lowering the incidence of diabetes, hypertension, heart disease, stroke, and cancer through a traditional Hawaiian diet, your Committee has provided funds for program expansion in the Waimanalo area to help more Hawaiians utilize a traditional Hawaiian diet to live a healthful lifestyle. Funds have been appropriated for education, research, and publicity purposes, as well to provide demonstration diets and medical protocol to the participants in the program.

The second area that merits continued support is education. Educational research strongly recommends that children receive educational experiences during their critical early years of development. Many experts link early childhood education to the overall success of future educational opportunities. As a result, funds have been provided to establish an Early Education Center to provide nurturing support and learning experiences that will prepare Hawaiian students to enter the public school system.

To assist those already in school, tutorial services have also been funded to provide opportunities for students to reach their full academic potential.

The third major area of concern is the housing needs of the Hawaiians. Your Committee is encouraged by OHA's expressed commitment to address this issue. To support this determination, your Committee has appropriated moneys for self-help housing projects.

In addition, efforts to preserve the resplendent heritage of Hawaiians and native Hawaiians have been given support. Funds have been provided to solemnize Hawaii's unique heritage by using the occasion of the one hundredth anniversary of the overthrow of the monarchy to commemorate the life and contributions of Hawaii's last reigning monarch, Queen Liliuokalani. Your Committee believes that the observation of this event is important not only to the Hawaiian people, but to all residents of our State.

SUMMARY

Your Committee willingly took on the difficult task of developing the supplemental OHA Budget to provide the needed services and programs of native Hawaiians and Hawaiians, while ensuring the State's overall fiscal solvency. Because the fiscal integrity of the State is fundamental to sound and responsible government, your Committee took a cautious approach to all fiscal concerns in light of the current tight revenue projections and the anticipation of slow economic growth in the immediate years ahead.

In summary, your Committee believes that this supplemental Budget provides a responsible allocation of valuable, scarce resources to the Office of Hawaiian Affairs for the betterment of conditions of native Hawaiians and Hawaiians.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3184, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3184, H.D. 2, S.D. 1, C.D. 1.

Senators Yamasaki, Aki, Crozier, Hagino, Iwase, Kobayashi, A., Kobayashi, B., Levin, Solomon and George.
Managers on the part of the Senate.

Representatives Hagino, Souki, Alcon, Baker, Chang, Duldulao, Ige, M., Kanoho, Kawakami, Say, Tajiri, Yonamine, Anderson and Marumoto.
Managers on the part of the House.

Conf. Com. Rep. No. 148 on H.B. No. 736

The purpose of this bill is to comply with the requirements of Article VII, section 6, of the Constitution of the State of Hawaii. This section requires the Legislature to provide either a tax refund or a tax credit to qualified taxpayers whenever the state general fund balance at the close of each of two successive fiscal years exceeds five per cent of the general fund revenues for each of the two fiscal years.

Your Committee finds that these factors have been met for the eleventh consecutive year, and the tax credit established by this bill complies with the constitutional requirements.

Upon further consideration, your Committee has amended this bill by establishing the amount of the tax credit at \$1 per resident individual taxpayer.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 736, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 736, H.D. 1, S.D. 2, C.D. 1.

Senators Yamasaki, Aki, Hagino, Iwase, Kobayashi, A., Kobayashi, B., Levin, Solomon and George.
Managers on the part of the Senate.

Representatives Souki, Alcon, Baker, Chang, Duldulao, Ige, M., Kanoho, Kawakami, Say, Tajiri, Yonamine and Marumoto.
Managers on the part of the House.

Conf. Com. Rep. No. 149 on H.B. No. 2705

The purpose of this bill is to provide supplemental appropriations to the Judiciary for the fiscal biennium 1991-1993 by amending Act 299, Session Laws of Hawaii 1991.

FINANCIAL AND BUDGETARY OVERVIEW

During the past five years, Hawaii was fortunate to realize double digit growth in general revenues that resulted in additional resources for many new programs, expansion of existing programs, and initiation of myriad capital improvement projects.

Socio-economic changes nationally and worldwide during the last two years have placed a distressing set of strains on our financial structure and revenues. Last year, in fashioning the Judiciary Budget, as well as the Executive Budget and the Office of Hawaiian Affairs (OHA) Budget for the 1991-1993 fiscal biennium, the Legislature was constrained by fiscal uncertainties triggered by the Persian Gulf War, the national recession, and changes in Japan's investment policy. As a result, in all three Budgets, the 1991 Legislature focused on meeting only the most urgent needs of our state, while maintaining essential economic and social safeguards.

This year, the Legislature again began its deliberations facing a number of major fiscal uncertainties. Given the effects of the slowdowns in tourism and construction and a national economic recession, as well as increasing federal mandates without the concomitant federal moneys for implementation, the most important issue facing the 1992 Legislature has been declining revenues.

In the last half of 1991, tax revenue reports provided early signs of state receipts falling below revenue projections. Moreover, presentations by Hawaii's noted economists at the start of the 1992 legislative session indicated that the state economy had shifted to a much lower rate of growth than had been experienced in prior years.

This was reflected in the January 10, 1992, report of the Council on Revenues, which revised downward its September 1991 forecast of state revenue growth from 10.0 percent in fiscal year 1991-1992 and 4.9 percent in fiscal year 1992-1993 to 6.0 percent and 2.7 percent, respectively. In their March 1992 report, the Council indicated that actual general revenue collections were below earlier projections, and revised further downward their estimate of revenue growth to 2.4 percent and 1.1 percent, respectively. The impact of the March revision is that over \$350 million less in general fund collections is expected for the biennium than was projected in January.

COMMITTEE DELIBERATIONS

Within this fiscal framework, your Committee has carefully reviewed the supplementary budget proposal submitted by the Judiciary as well as the amendments made by both the House of Representatives and the Senate.

To ensure the fiscal integrity of the State, your Committee carefully deliberated on this supplemental Judiciary Budget bill, as well as the supplemental Executive Budget and OHA Budget bills and all other bills that affect state finances. Were it not for the projected revenue shortfall, your Committee would have been able to give serious consideration to funding many worthwhile programs. But in these uncertain fiscal times, your Committee must act responsibly in meeting a wide range of pressing community needs and concerns.

During deliberations, your Committee had to weigh the uncertainty of Hawaii's financial future with the immediate needs in certain program areas. Your Committee's decisions in formulating the supplementary Judiciary Budget were characterized by confrontations with economic uncertainties and the harsh realities of limited financial resources. At the same time, your Committee recognizes that fiscal responsibility dictates the identification of new ways to further maximize productivity and efficiency in the delivery of public services. As a result, many difficult decisions had to be made on reducing the requested amounts, and in certain instances not providing funds at all. In this regard, serious consideration was given to ensure that adequate future fiscal resources would be available to maintain existing programs. Your Committee believes that, as difficult as the decisions were, the reductions are justified and constitute a proper course to follow.

Your Committee believes that in these critical economic times, sound judgment and rational decisions must be made and that everyone must be willing to contend with certain services and programs being reduced, or to do without certain services and programs, until the economy improves significantly.

FISCAL RESPONSIBILITY

Your Committee believes that the public has the right to expect that the State's fiscal integrity is maintained, that public funds are expended wisely, and that government operations are executed efficiently.

Your Committee notes with concern the significant growth of the Judiciary budget in recent years. The Judiciary budget, over the past three years, has increased a total of 49 percent, with an annual average increase of 11.67 percent.

Moreover, as a consequence of the significant slowdown of Hawaii's economy over the past year and the uncertainty of our future financial resources, prudence dictates that all government agencies over the next fiscal year and future fiscal years take a cautious approach regarding future expenditures and program expansions.

Your Committee urges the Judiciary, along with other state agencies, to adopt the position that economic uncertainty must be approached with an attitude of fiscal responsibility and constraint.

PROGRAMS AND SERVICES

With this in mind, your Committee has developed a supplemental Judiciary Budget that balances the priorities and needs of the Judiciary with the finite resources of the State.

Your Committee carefully examined the budget requests of the Judiciary in light of the fiscal and economic uncertainty facing Hawaii. At the same time, your Committee has been mindful of the increased demand for court services and the growth in the number of adjudications that has resulted in the Judiciary struggling to meet the public's needs in a consistent and timely manner. Therefore, funding has been provided to allow the courts to address the most urgent of these needs. Your Committee has appropriated moneys to meet the critical need for more judges. In addition, funds have been provided to meet increased workload requirements, improve information technology, and provide adequate office and storage space to accommodate the significant growth court programs have experienced over the past few years.

Funding for a nineteenth judge for the First Circuit Court Criminal Division has been provided to address the burgeoning number of case filings. The increase in filings, coupled with the growing complexity of violent crimes, have aggravated backlogs in case processing. This additional support will allow the Judiciary to continue its commitment to protect and safeguard victims, as well as to ensure the timely delivery of justice.

As the number of court case filings grow, the need for support services to maintain the efficient flow of information and documents also increases. Through an appropriation of \$191,000, your Committee has provided for additional personnel to be hired to enable the Judiciary to ensure orderly operations, to support the efficient flow of information, and to process necessary documents in a timely manner.

The effective management of court information and documents plays an integral role in the delivery of court services. Therefore, \$300,000 has been provided to allow continued efforts in the development of a unified technological plan for the Judiciary.

The growing need for office and storage space also reflects the rapid growth court programs have experienced over the years. As a short-term solution, your Committee has provided \$625,000 for the rental of additional office and storage space to mitigate the crowded conditions in the court system.

SUMMARY

Your Committee willingly took on the difficult task of developing a supplemental Judiciary Budget to provide the needed court services and programs to assure timely adjudications while ensuring the State's overall fiscal solvency. Because the fiscal integrity of the State is fundamental to sound and responsible government, your Committee took a cautious approach to all fiscal concerns in light of the current tight revenue projections and the anticipation of slow economic growth in the immediate years ahead.

In summary, your Committee believes that this supplemental Budget provides a responsible allocation of valuable, scarce resources to the Judiciary to provide needed court services and programs to assure timely adjudications.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2705, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2705, H.D. 2, S.D. 1, C.D. 1.

Senators Yamasaki, Aki, Blair, Hagino, Iwase, Kobayashi, A., Kobayashi, B., Levin, Solomon and George.
Managers on the part of the Senate.

Senator Blair did not sign the report.

Representatives Metcalf, Souki, Alcon, Baker, Chang, Duldulao, Ige, M., Kanoho, Kawakami, Say, Tajiri, Yonamine, Anderson and Marumoto.
Managers on the part of the House.

Conf. Com. Rep. No. 150 on H.B. No. 3974

The purpose of the bill is to reduce and stabilize the cost of motor vehicle insurance in Hawaii.

Your Committee used two vehicles, this bill and S.B. No. 2361, C.D. 1, to overhaul the no-fault law. The bills address different areas and work in tandem to create the comprehensive changes to the no-fault law.

This bill amended the law in the following areas:

- (1) Instituted a change in the determination of the medical rehabilitative (monetary) threshold which is intended to allow only ten percent of accident claims to be eligible for tort recovery. In the intervening year (1992-1993) before that formula can be utilized, the medical rehabilitative threshold shall be \$10,000, effective September 1, 1992;
- (2) Rate reduction of fifteen percent and rate freeze. An insurer may petition for relief from the mandatory reduction or freeze only if it can show that it will be in imminent danger of insolvency. This section is also included in S.B. No. 2361, C.D. 1;

- (3) Reduction of bodily injury liability mandatory coverage from \$35,000 to \$25,000. This will decrease premiums, but consumers will continue to have the option to purchase higher limits, as optional bodily injury coverage is presently required and will continue to be required;
- (4) Increase of personal injury protection (PIP) benefits from \$15,000 to \$20,000. The PIP benefits have not been increased since the inception of the no-fault law, and your Committee finds that the increase in PIP benefits is necessary to reflect the effects of inflation;
- (5) An amnesty period for uninsured motorists so that they may obtain insurance without a penalty or surcharge in order to encourage voluntary compliance with the law yet maintain insurance affordability by suspending penalties and surcharges. This will encourage uninsured motorists to obtain coverage, thus lowering the number of uninsured motorists in Hawaii;
- (6) Disallowance of attorney fees for unreasonable claims in disputes involving no-fault benefits for the insured. Your Committee wishes to discourage unreasonable no-fault claims and prohibit payments of fees to attorneys handling such claims. This should result in lower claims costs, and ultimately lower insurance premiums;
- (7) Providing that insurers shall offer optional uninsured (UM) and underinsured (UIM) coverage at least equal to an insured's maximum bodily injury liability coverage, and optional stacking. Since the bill also contains a prohibition against the stacking of UM and IUM benefits, these provisions will allow consumers to obtain sufficient UM and UIM insurance coverages. This trade-off between the elimination of stacking and these optional coverages will be equitable only if consumers are fully informed of their loss of rights and ability to protect themselves through voluntary additional options at nominal cost;
- (8) Prior approval of insurance rates by the Insurance Commissioner. Under current law, insurance companies may simply file and use insurance premium rates thirty days after filing. Those rates need not be approved by the Insurance Commissioner before they are used by insurance companies. Your Committee expects that prior approval of insurance rates will assist in insuring that only rates that are reasonable and fair for both the consumer and insurance company are utilized in the State of Hawaii;
- (9) Adding the additional requirement that the Insurance Commissioner make available sample insurance rates by consumer request. The information should be easy to understand and printed in a legible form;
- (10) Required disclosure of deductible options and premium savings to consumers and increase of possible deductibles. Since the use of deductibles is at the option of the consumer, increasing required optional deductibles will give consumers greater flexibility to reduce their insurance premiums.

The law presently requires optional no-fault deductibles of \$100, \$300 and \$500. The bill requires the addition of an optional no-fault deductible of \$1,000. There currently are optional collision deductibles of \$50, \$100, \$250 and \$500. The bill increases the range of options to add \$1,000, \$1,500, and \$2,000 collision deductibles. Insurance companies currently offer comprehensive deductibles of \$50, \$100, and \$250. The bill requires additional comprehensive deductibles of \$500, \$1,000, \$1,500, and \$2,000. All deductibles must be offered at appropriately reduced premium rates.

The bill also requires that insurance companies disclose deductible options to consumers when the policy is initially sold and at every renewal. Disclosure should inform consumers that deductibles are available and the premium savings for each deductible; and

- (11) Deleting the requirement of physical impact or independent evidence of unidentified vehicles in uninsured motorist claims to correct the unintentional addition of such requirement in the 1987 recodification of the insurance code, contrary to the legislative intent that the recodification was for the purpose of making nonsubstantive changes to the insurance laws.

Segregation of medical benefits under no-fault PIP payments is provided in S.B. No. 2361, C.D. 1 in order to establish direct payment to the health care provider and ensure proper enforcement of the medical fee schedule and guidelines. Further, explanatory language is also provided in S.B. No. 2361, C.D. 1, to ensure that other medical insurance coverage will be applicable in the event of the exhaustion of the \$10,000 PIP benefits, allocated to medical and rehabilitative services. S.B. No. 2361, C.D. 1, also increases wage loss from \$900 per month to \$1200 per month to reflect the effect of inflation.

Your Committee intends that although the lower rates, higher deductible options, and decreased mandatory coverage requirements will be made available to consumers as their insurance policies come up for renewal after January 1, 1993, consumers who do not wish to wait until renewal may amend their existing policies to take advantage of the new limits and options.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3974, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3974, H.D. 1, S.D. 1, C.D. 1.

Senators Ikeda, Iwase, McCartney and Koki.
Managers on the part of the Senate.

Senator Koki did not sign the report.

Representatives Hirono, Metcalf, Amaral, Morihara, Takamine and Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 151 on S.B. No. 2423 (Majority)

The purpose of this bill is to require that seven and one-half per cent of the transient accommodations tax (TAT) revenues allocated to each county be designated for visitor promotion in that county. As received, the bill would require the counties to administer the moneys in consultation with the local chapters of the Hawaii Visitors Bureau and the Hawaii Hotel Association.

Your Committee has amended the bill as follows:

- (1) By changing "1990" to "1992" at page 1, line 3; and
- (2) By substituting the word "concurrence" for "consultation" on page 1, line 17.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2423, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2423, S.D. 1, H.D. 2, C.D. 1.

Senators Yamasaki, Kobayashi, A., Nakasato, Solomon and Koki.
Managers on the part of the Senate.

Representatives Cachola, Ihara Jr., Souki, Baker, Kanoho, Say and Anderson.
Managers on the part of the House.

Representative Ihara Jr. did not concur.

Conf. Com. Rep. No. 152 on S.B. No. 2997

The purpose of this bill is to appropriate \$1 to plan and design the implementation of the Kahuku Flood Relief Master Plan, provided that the City and County provides \$250,000 and the federal government provides \$500,000 for the project.

Your Committee finds that flooding in the Kahuku area causes widespread property damage and presents potential public health and safety problems.

Upon further consideration your Committee has amended the bill by increasing the appropriation from \$1 to \$250,000.

Your Committee has also amended the bill by adding a new section stating the reasons why and the amount and rate by which the appropriation contained in this bill exceeds the state spending limit to comply with constitutional and statutory requirements.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2997, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2997, S.D. 1, H.D. 1, C.D. 1.

Senators Yamasaki, Aki, Fernandes Salling, McCartney and George.
Managers on the part of the Senate.

Representatives Metcalf, Hashimoto, Say, Alcon, Amaral and Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 153 on S.B. No. 2882

The purpose of this bill is to: (1) establish a temporary Waikiki Task Force to oversee the implementation of the Waikiki District Master Plan; (2) establish the boundaries of the Waikiki District; (3) create a Waikiki District Special Fund; (4) transfer employees of the Waikiki Convention Center Authority to the temporary task force; and (5) appropriate an unspecified amount, to be matched by the City and County of Honolulu, for deposit into the special fund.

Upon further consideration, your Committee on Conference has amended the bill by:

- (1) Adding a definition of "developer" to Chapter 206X, Hawaii Revised Statutes, dealing with the Waikiki Convention Center Authority;
- (2) Removing from Chapter 206X, the requirement that the convention center be built in Waikiki by a private developer, and all references to "Waikiki" in connection with the title of the authority, the convention center district, and the convention center development revolving fund;
- (3) Authorizing the convention center authority to operate a convention center upon dedication to the State, and to issue revenue bonds;
- (4) Modifying the membership of the Waikiki Task Force;
- (5) Specifying \$75,000 as the amount to be deposited into the Waikiki District Special Fund;
- (6) Deleting provisions transferring the employees of the Waikiki Convention Center Authority to the Waikiki Task Force;
- (7) Extending the term of the Convention Center Authority to June 30, 1994;

- (8) Making all provisions relating to the Waikiki Task Force, including the appropriation for the special fund, effective on September 1, 1992, but only if the task force appointed by the Mayor of the City and County of Honolulu has not held its first meeting, is operational, or has provided a status report of its activities by that date; otherwise all of the Waikiki Task Force provisions become void; and
- (9) Providing for the repeal, in any event, of all provisions relating to the Waikiki Task Force on June 30, 1994; and
- (10) Adding a new section stating the reasons why and the amount and rate by which the appropriation contained in this bill exceeds the state spending limit to comply with constitutional and statutory requirements.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2882, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2882, S.D. 2, H.D. 2, C.D. 1.

Senators Yamasaki, Kobayashi, A., McMurdo, Nakasato, Solomon and Koki.
Managers on the part of the Senate.

Senators McMurdo and Koki did not sign the report.

Representatives Cachola, Souki, Baker, Kanoho, Kawakami, Say, Tajiri and Anderson.
Managers on the part of the House.

Conf. Com. Rep. No. 154 on S.B. No. 2868

The purpose of this bill, as received, is to establish a rental housing trust fund under the Housing Finance and Development Corporation to provide loans or grants to housing developers for the construction of rental housing units for low income households. The bill further requires that conveyance tax revenues pursuant to Chapter 247, Hawaii Revised Statutes, be deposited into the Trust Fund effective July 1, 1993.

In addition, the Director of Finance is authorized to transfer \$15,000,000 into the trust fund from the Rental Assistance Revolving Fund.

Your Committee finds that there is an extreme shortage of rentals available for Hawaii's people. In addition, current efforts have failed to help the greatest need, the need for affordable rentals.

Rental housing trust funds have been proven in other states and governmental jurisdictions to be a very effective way in producing affordable housing units in a timely fashion.

Your Committee finds that creating an independent commission which will have the authority to expend trust fund moneys will enable the commission to respond to community concerns and needs along with expediting the approval process. It is important to have public members, such as, real estate brokers, tenant and renter advocacy organizations, non-profit housing developers, mortgage lenders and architects who represent areas that will utilize the trust fund, service those who receive loans or grants from the trust fund will be best able to decide the priorities for distributing the trust fund moneys.

Any project built utilizing the trust fund moneys shall make at least half of the available units for persons and families with incomes at or below 60% of the median family income, based on the median income for the area in which the project is built. Because affordable units are in demand even for moderate income people, the remaining units of a rental housing trust fund project shall be designated for persons and families with incomes at or below 100% of the median income of the area. This will also aid in keeping a healthy economic mix of residents in any one project.

In addition, the bill defines what activities shall be eligible for assistance and what types of units should be considered. Your Committee finds that it is important to move away from the traditional focus of single-family homes and build units that require the least amount of subsidy.

The commission shall have the authority to accept or deny applications based on each project's ability to serve the target population inter alia and the type of unit to be built. The bill recommends that the commission establish a point system for ranking each application on a case-by-case basis. This point system shall ensure that only projects that meet the standards set forth in this bill, and in the administrative rules created to support the intent of this legislation will be built with rental housing trust fund moneys.

Your Committee finds that nonprofit organizations have had difficulty competing in the development of affordable housing due to the large amounts of capital needed for a project. The intent of this bill is to ensure that nonprofit organizations will be able to compete in the affordable housing market based on the merits of the projects they propose, not on the amount of capital they possess. With this in mind, the commission is directed in its point ranking system to accept the nonprofit project rather than a for-profit project if the projects rank equally based on the criteria set forth in the Act.

Your Committee is aware that previous programs designed to encourage housing development have failed to meet demand, in part because of excessive regulatory and paperwork requirements imposed on applicants. The commission is encouraged to develop rules to ensure that the processing of applications for funding can be carried out in the simplest and most expeditious manner consistent with its obligation to protect the interests of the rental housing trust fund.

Your Committee finds that the housing crisis in Hawaii affects all taxpayers. The movement to solve our housing crisis should not be burdened onto one specific tax, such as the conveyance tax, but be the responsibility of the broad tax base

of the general fund. It is for this reason your Committee has amended the bill to delete the conveyance tax as a source of funding for the rental housing trust fund.

Your Committee has further amended the bill by:

- (1) Placing the rental housing trust fund and the commission within the Department of Budget and Finance (Department) for administrative purposes only;
- (2) Changing the statutory location of the trust fund from 201E, Hawaii Revised Statutes, to a new chapter to be appropriately designated;
- (3) Adding a section on definitions used in the new chapter;
- (4) Changing the size of the commission from seventeen members to seven;
- (5) Providing loan parameters which restrict loan-to-value ratios from exceeding ninety-five per cent and providing underwriting guidelines for a debt-coverage ratio of not less than 1.05 to 1;
- (6) Allowing the commission to obtain the services of technical and support staff from other government agencies;
- (7) Defining the roles of the Housing Finance and Development Corporation (corporation) and the Department;
- (8) Providing for the establishment of an interim commission for the purposes of establishing administrative rules;
- (9) Making other technical, non-substantive amendments for the purpose of style and clarity.

Your Committee wishes to express its strong desire to expedite the administrative rule-making process. Hawaii's rental housing crisis needs the rental housing trust fund up and running as soon as possible. To accomplish this expedited process, your Committee requests that the interim commission appointed by the Governor, work with the Department, the corporation and the members of the community who participated in the creation of this legislation, to develop the the administrative rules as quickly as possible.

It is equally as important to emphasize that the trust fund not only serves as a fund for low interest loans, but as a grant making fund.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2868, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2868, S.D. 2, H.D. 2, C.D. 1.

Senators Yamasaki, Crozier, Kobayashi, A., Kobayashi, B., and Koki.
Managers on the part of the Senate.

Representatives Bainum, Souki, Amaral, Arakaki, Chun, Kanoho, Say and Tatibouet.
Managers on the part of the House.

Representative Tatibouet did not sign the report.

Conf. Com. Rep. No. 155 on S.B. No. 2867

The purpose of this bill is to establish the Infrastructure and Equity Gap Development Fund (Fund) to be used by the Housing Finance and Development Corporation (HFDC) to provide developers with grants for the development of necessary infrastructure and the provision of equity gap financing related to the construction of affordable rental developments for low, very low, moderate, and gap group income families.

Your Committee finds that there is a shortage of affordable housing in Hawaii and that development of affordable housing and projects by private entities must be encouraged.

Accordingly, your Committee has amended this bill to expand opportunities for development of affordable rental housing projects. Your Committee has amended the bill to:

1. Clarify the definition of "eligible borrower" and "eligible loan" in the Taxable Mortgage Securities Program;
2. Clarify what portion of the rental assistance revolving fund may be used by the HFDC to make payments under rental assistance contracts, rent subsidies or construction financing;
3. Provide that proceeds of any bond issues may be included in the principal sum of the rental assistance revolving fund;
4. Correct a statutory reference in section 201E-134;
5. Provide that HFDC may use up to \$25,000,000 of the rental assistance revolving fund to finance development by private profit and nonprofit entities, in addition to HFDC, of affordable rental housing;
6. Delete the establishment of the Infrastructure and Equity Gap Development Fund;

7. Clarify that the high cost of infrastructure development and obtaining interim construction financing are two great impediments to the development of affordable rental housing in Hawaii and that the purpose of this bill is to provide such interim construction, with a preference for qualified sponsors who are private entities;
8. Delete the provision that allowed the corporation to pay in full at any time certain rental contract obligations; and
9. Requires that HFDC reserve an amount equal to ten per cent of the outstanding guarantees and to state that the amount satisfies the constitutional reserve requirement.

It is the legislature's intent that the rental assistance revolving fund shall be used by HFDC primarily to finance the development of affordable rental housing by private nonprofit and profit entities and not for development of HFDC projects. Although HFDC itself may use the fund to develop affordable rental housing, HFDC's use is intended to be secondary to use for financing of private entities.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2867, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2867, H.D. 2, C.D. 1.

Senators Crozier, Yamasaki, Aki and Reed.
Managers on the part of the Senate:

Senator Reed did not sign the report.

Representatives Isbell, Souki, Amaral, Bainum, Chang, Chun, Say and Tatibouet.
Managers on the part of the House.

Representative Tatibouet did not sign the report.

Conf. Com. Rep. No. 156 on S.B. No. 2485

The purpose of this bill is to ensure that the Office of Hawaiian Affairs (OHA) realizes income from lands in the public land trust conveyed by the Department of Land and Natural Resources to the Housing Finance and Development Corporation (HFDC) for master planned community development.

Section 10-13.5, Hawaii Revised Statutes, provides that twenty percent of the proceeds derived from the public land trust shall be expended by OHA for the betterment of the conditions of native Hawaiians.

This bill provides that in cases of transfers of public land trust property from DLNR to HFDC, OHA shall be entitled to twenty percent of the fair market value of the land as determined by disinterested appraisers, plus an additional five percent simple interest on any unpaid portion. The bill clarifies that moneys derived from the development of housing projects pursuant to section 201E-2 are excluded from revenues from the public land trust to which OHA is entitled except as provided in this bill. The bill also establishes an advisory commission on the compensation of OHA trustees to study and make recommendations to the 1993 Legislatures.

Your Committee finds that it was the intent of the Legislature, in enacting OHA and the public land trust provision, to provide OHA with substantial revenues from transactions involving the trust. The bill is consistent with that intent in that it provides a means to determine the amount of compensation due and owing to OHA.

Your Committee finds that these transactions are likely to occur in pursuit of State objectives relating to housing, and that public policy would be obviated unless OHA is compensated fairly. This bill provides one means of prohibiting the State from circumventing legislative intent.

Your Committee has amended the bill by:

- (1) Amending the definition of "fair market value" to utilize the highest and best use appraisal value;
- (2) Adding a definition of "highest and best use" which means the most profitable, probable, and legal use to which the land can be put;
- (3) Changing the rate of interest payable on the amount owing to OHA to simple interest established pursuant to the fifteen year treasury rate and payable annually;
- (4) Providing that OHA will receive twenty percent of the revenues received by HFDC for commercial, industrial, or other non-residential use of the property, but not until HFDC recovers the amount already paid to OHA for the land and only from revenues remaining after HFDC has met its operating expense obligations in an amount up to one percent of the project revenues and its annual debt service on moneys borrowed for the land used for commercial, industrial, or other non-residential purposes;
- (5) Providing that the two appointed appraisers must agree within thirty days instead of ten days or the parties shall contract the services of a mutually selected third appraiser; and
- (6) Providing that Sections 1 and 2 of this Act shall apply only to HFDC's developments known as Kealakehe and Lahaina.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2485, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2485, S.D. 2, H.D. 2, C.D. 1.

Senators Yamasaki, Aki, Crozier, Kobayashi, B., and George.
Managers on the part of the Senate.

Senator Aki did not sign the report.

Representatives Young, Souki, Baker, Ige, D., Morihara, Say and O'Kieffe.
Managers on the part of the House.

Representatives Ige, D., and Morihara did not sign the report.

Conf. Com. Rep. No. 157 on S.B. No. 2638

The purpose of this bill is to ensure that the Department of Hawaiian Home Lands (DHHL) realizes thirty percent of the revenue derived from the transfer of former sugarcane lands as set forth in Article XII, Section 1, of the Constitution of the State of Hawaii, when conveyed for the development of housing projects to the Housing Finance and Development Corporation (HFDC).

Specifically, the bill:

- (1) Requires the amount of compensation to DHHL to be computed by a formula specifying that the fair market value of the land is to be multiplied by thirty percent;
- (2) Defines "fair market value" as the amount of money which a purchaser willing but not obliged to buy would pay to an owner willing but not obliged to sell, taking into consideration governmental land use designations and zoning affecting the land at the time of the appraisal;
- (3) Requires the performance of appraisals for said sugarcane lands by two disinterested appraisers;
- (4) Provides for the selection of a mutually agreed upon third appraiser and sets forth a course of action to follow, in the event the two appraisers are unable to agree on a fair market value;
- (5) Provides that the amount due to DHHL as compensation for the lands transferred shall be payable on the date of the conveyance of the land to HFDC, and any amounts not paid at this point in time will be subject to a five percent simple interest per annum payment by the State to DHHL; and
- (6) Specifies that if the amount is not paid to the DHHL on a timely basis, the appraised value amount will be subject to five percent simple interest per annum additional payment.

By way of a brief background, Article XII, Section 1, of the Constitution of the State of Hawaii provides that thirty percent of State receipts derived from the lease of lands cultivated as sugarcane lands as of November 7, 1978, shall continue to be transferred to DHHL "whenever such lands are sold, developed, leased, utilized, transferred, set aside, or otherwise disposed of for purposes other than the cultivation of sugarcane."

The subject of DHHL's thirty percent entitlement has been the subject of a long, and oftentimes emotional, debate. This particular measure along with a host of other native Hawaiian entitlement measures has been one of the most difficult issues to resolve. The Legislature has recognized that native Hawaiians are entitled to certain forms of compensation. However, State funding sources must be identified in a fiscally austere biennium to pay a fair market price for the transfer of public land trust sugarcane lands for housing development.

In its deliberations, your Committee has resolved to fashion a fair compensation formula which reflects accepted appraisal assumptions and guidelines to come up with the most equitable formula for the computation of land values. It is the intent of your Committee to strive for a formula which results in computations which are fair, and which result in a fair price for public land trust sugarcane lands being transferred for housing development.

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

- (1) Amending the definition of "fair market value" to utilize the highest and best use appraisal value;
- (2) Adding a definition of "highest and best use" which means the most profitable, probable, and legal use to which the land can be put;
- (3) Changing the rate of interest payable on the amount owing to DHHL to simple interest established pursuant to the fifteen year treasury rate and payable annually;
- (4) Providing that DHHL will receive thirty percent of the revenues received by HFDC for commercial, industrial, or other non-residential use of the property, but not until HFDC recovers the amount already paid to DHHL for the land and only from revenues remaining after HFDC has met its operating expense obligations in an amount up to one percent of the project revenues and its annual debt service on moneys borrowed for the land used for commercial, industrial, or other non-residential purposes;
- (5) Providing that the two appointed appraisers must agree within thirty days instead of ten days or the parties shall contract the services of a mutually selected third appraiser; and
- (6) Providing that Section 1 and 2 of this Act shall apply only to HFDC's developments known as Kealakehe and Lahaina.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2638, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2638, S.D. 1, H.D. 2, C.D. 1.

Senators Yamasaki, Crozier, Kobayashi, A., Kobayashi, B., and George.
Managers on the part of the Senate.

Representatives Young, Souki, Baker, Ige, D., Morihara, Say and O'Kieffe.
Managers on the part of the House.

Representatives D. Ige and Morihara did not sign the report.

Conf. Com. Rep. No. 158 on S.B. No. 2407

The purpose of this bill is to:

- (1) Establish a fifteen-member Queen Liliuokalani Commemoration Commission to be appointed by the Governor and placed within the Office of Hawaiian Affairs, for administrative purposes, for the planning and execution of activities to educate all segments of the population on the life of Queen Liliuokalani;
- (2) Appropriate \$500,000 for commemorative activities and to disseminate information; and
- (3) Declare January 17, 1993, as a day of commemoration to recognize the life and contributions of Queen Liliuokalani.

Your Committee has amended this bill to:

- (1) Change the amount to be appropriated to \$90,000;
- (2) Provide that the appropriation shall be expended as follows: \$25,000 for the island of Hawaii; \$25,000 for the island of Kauai; \$25,000 for the island of Maui; and \$15,000 for the island of Molokai;
- (3) Clarify that commemoration activities are to be held on the week-end of January 17, 1993 and that it is not the legislature's intent for the commission to schedule activities for the entire year;
- (4) Adding a new section stating the reasons why and the amount and rate by which the appropriation contained in this bill exceeds the state spending limit to comply with constitutional and statutory requirements; and
- (5) Delete requirement that appropriation be expended on a traveling dramatic production, a musical composition, and a film documentary on the making of the composition.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2407, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2407, S.D. 2, H.D. 2, C.D. 1.

Senators Yamasaki, Crozier, Hagino, Tungpalan and Reed.
Managers on the part of the Senate.

Senators Tungpalan and Reed did not sign the report.

Representatives Hagino, Say, Hiraki, Kawakami, Santiago and Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 159 on S.B. No. 3116

The purpose of this bill is to require the legislative reference bureau to conduct a study and draft proposed legislation to enact a comprehensive procurement code for Hawaii. This bill also broadens the instruments acceptable as deposits of legal tender by agencies advertising for tenders.

Following its review of this measure, your Committee has amended this bill by requiring the office of the auditor to assume the responsibility of performing the comprehensive review of Hawaii's current procurement law and developing the recommendations to enact a new procurement code. Accordingly, the legislative reference bureau has been reassigned to perform the task of drafting the legislation necessary to implement the findings of the office of the auditor.

Your Committee has also reinserted an amendment to the bid deposit provision of the procurement law that was deleted from the senate version of this measure. The amendment provides the comptroller the discretion to determine on a case-by-case basis, which bids shall be accompanied by deposits of legal tender.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 3116, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 3116, S.D. 1, H.D. 2, C.D. 1.

Senators Yamasaki, Hagino, Kobayashi, A., Kobayashi, B., and George.
Managers on the part of the Senate.

Representatives Metcalf, Ihara Jr., Souki, Amaral, Kanoho and Wad.
Managers on the part of the House.

Conf. Com. Rep. No. 160 on S.B. No. 2855

The purpose of this bill is to appropriate funds and provide additional means for compensating the Department of Hawaiian Home Lands for the State's past wrongful, improper, or unauthorized withdrawals, transfers, takings or uses of Hawaiian home lands which occurred from August 21, 1959 to the present and to pursue claims against the federal government.

In 1988, after much debate, the Legislature enacted Act 395 establishing a Native Hawaiian Trusts Judicial Relief Act which granted the right to sue for breaches of trust occurring after July 1, 1988. Recognizing the existence of past controversies, Act 395 required the Governor to present a proposal to the Legislature to resolve controversies relating to the Hawaiian Home Lands Trust which occurred between Statehood and 1988.

Resolving wrongful set asides is one of a number of actions proposed in the Governor's Action Plan to Address Controversies Under the Hawaiian Home Lands Trust and the Public Land Trust which was supported and amended by S.C.R. No. 185, adopted by the Sixteenth Legislature.

Last year, the Legislature appropriated \$14,480,000 to the Department of Hawaiian Home Lands for the development of infrastructure. Your Committee believes that by appropriating the amounts stated in the bill, further development of Hawaiian home lands can be accomplished.

Your Committee has amended the bill by replacing its entire contents with that of H.B. No. 2922, H.D. 2, S.D. 1, and by making the following amendments:

- (1) Deleting Section 4(a) in order to remove language authorizing the Hawaiian Homes Commission to grant the State interests less than fee simple absolute for a lump sum in order to allow specific public uses of Hawaiian home lands;
- (2) Changing the amount appropriated to the Office of State Planning to continue to assist the State task force on the Department of Hawaiian Home Lands title and related claims in preparing the remaining claims for submission to the Legislature in 1993 from \$675,000 to \$640,000;
- (3) Changing the amount appropriated to the Department of the Attorney General to pursue Hawaiian home lands trust claims against the Federal government from \$500,000 to \$350,000;
- (4) Changing the amount appropriated to the Department of Hawaiian Home Lands to conduct an audit of the sugarcane lease entitlement to Hawaiian home lands;
- (5) Adding a new section stating the reasons why and the amount and rate by which the appropriations contained in this bill exceed the state spending limit to comply with constitutional and statutory requirements; and
- (6) Making technical non-substantive amendments for the purposes of clarity and style.

Your Committee on Conference believes that this legislation will resolve some of the controversies relating to the Hawaiian home lands trust as required under Act 395, Session Laws of Hawaii 1988, and will provide resources and authorization to pursue resolution of the remaining claims.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2855, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2855, S.D. 2, H.D. 2, C.D. 1.

Senators Yamasaki, Aki, Crozier, Holt and George.
Managers on the part of the Senate.

Representatives Young, Souki, Ige, D., Morihara, Say, Tajiri and Thielen.
Managers on the part of the House.

Representative Ige, D., did not sign the report.

Conf. Com. Rep. No. 161 on S.B. No. 2361

The purpose of this bill as received by your Committee is to amend the no-fault law with the intent of reducing and stabilizing the soaring cost of motor vehicle insurance in this State.

Your Committee finds that very few substantive changes have been made to Hawaii's no-fault law since its enactment in 1973 for the purpose of providing benefits without regard to fault and controlling insurance rates by limiting tort actions. Yet, insurance premiums have escalated dramatically due, in part, to the tremendous increase in amounts paid out for benefits. This increase in benefit payments has been driven, in part, by increased litigation. While the framers of the no-fault law intended to exclude ninety per cent of accident claims from the tort recovery system, an insurance industry study estimated that twenty-eight per cent of today's accident claims end up in tort.

After lengthy and laborious deliberations over the different approaches taken by the Senate and the House, your Committee has agreed to report out conference versions of this bill and H.B. No. 3974 in tandem. These two measures represent a coalescence of approaches and alternatives aimed at reducing and stabilizing the cost of motor vehicle

insurance in this State. To emphasize the Legislature's intent and commitment to provide immediate relief to consumers and to maintain a persistent regulatory posture on motor vehicle rate increases in the future, both bills provide for a fifteen per cent rate reduction and a one-year freeze on rates.

Each bill also contains different provisions which together will provide the long-awaited reforms to the no-fault law. Although the actual impact of these amendments can only be determined over time, your Committee strongly believes that these bills represent critical and necessary first steps to restore the original intent of the no-fault law--to keep ninety per cent of motor vehicle accident victims out of the tort recovery system while providing them with adequate and fair benefits.

Your Committee is confident that the initial monetary threshold of \$10,000 in H.B. No. 3974 and the medical fee schedule in this conference draft together will contain the number of accident claims eligible for tort actions to ten per cent, thus reducing costs.

This bill as received by your Committee has been amended by:

- (1) Establishing a medical fee schedule which limits charges and frequency of medical services and treatment by adopting, by reference, the workers' compensation fee schedule and guidelines;
- (2) Allowing, under certain circumstances, the limits of the medical fee schedule to be exceeded and establishing a peer review process for insurers to evaluate treatment and rehabilitative services provided to an injured person;
- (3) Increasing the personal injury protection (PIP) benefits from \$15,000 to \$20,000. The PIP benefits have not been increased since the inception of the no-fault law, and your Committee finds that the increase in PIP benefits is necessary to reflect the effects of inflation;
- (4) Segregating medical benefits under no-fault PIP payments in order to provide for direct payment to the health care provider and ensure proper enforcement of the medical fee schedule and guidelines. Explanatory language is also provided in the bill to ensure that other medical insurance coverage will be applicable in the event of the exhaustion of the \$10,000 PIP benefits, allocated to medical and rehabilitative services;
- (5) Increasing the wage loss benefit from \$900 per month to \$1,200 per month to reflect the effect of inflation;
- (6) Prohibiting a surcharge on premiums on an insured for not having prior no-fault insurance unless that person was convicted for such an offense;
- (7) Banning stacking of uninsured and underinsured motorist coverages;
- (8) Requiring a sixty-day notice of cancellation for insurers who cease to write no-fault policies in this State; and
- (9) Prohibiting collusion between health care providers and attorneys.

This bill, as amended, imposes tremendous responsibilities on the insurance division to effectuate the intent of the legislature in enacting the various amendments included in this bill and in the conference version of H.B. No. 3974. The insurance division must maintain an active, consumer-advocacy posture in administering the no-fault law if the legislature's intent to maintain reasonable control over motor vehicle rate increases and tort actions is to be realized. The insurance division, not the legislature, is privy to the most current data and trends regarding the insurance industry and motor vehicle accident claims. As such, the insurance division must take a more proactive role in analyzing the data it possesses, flagging-out and forecasting problems with the no-fault law and motor vehicle insurance, and developing recommendations for remedial action by the governor and the legislature. Your Committee emphasizes that the reforms offered by this bill and the conference version of H.B. No. 3974 are hinged upon a tenacious regulatory effort by the insurance commissioner to assess and monitor the effects of the reforms in stabilizing and further reducing motor vehicle insurance rates. The resources made available through the no-fault administration fund created in this bill should enable the commissioner to do this.

Your Committee further notes that while a rate freeze will be imposed during the 1993 calendar year, this bill allows an insurer threatened by imminent danger of insolvency to request a rate increase.

As a final note, your Committee emphasizes that meaningful reform of the no-fault law to stabilize the cost of insurance can only be achieved if all parties in the no-fault insurance system work together and are willing to make concessions in the interest of developing a system that is effective and fair.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2361, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2361, S.D. 2, H.D. 1, C.D. 1.

Senators Ikeda, Iwase, McCartney and Koki.
Managers on the part of the Senate.

Representatives Hirono, Metcalf, Amaral, Morihara, Takamine and Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 162 on S.B. No. 2547

The purpose of this bill is, among other things, to: (1) establish an executive coordinating council within the Office of State Planning to provide policy recommendations to the governor on purchase of service funding levels for state executive

branch agencies; (2) delete the definition of "grant" from Section 42D1, Hawaii Revised Statutes, and make conforming amendments throughout chapter 42D; (3) change the placement, composition, and role of the advisory council; (4) delete the requirement that agency advisory committees be convened; (5) exempt agencies from advertising requirements in the case of providers specified by federal law; (6) delete the requirement that an appeal process be developed by each agency; and (7) appropriate a total of \$200,000 for coordination of a planning process, and staffing for the Office of State Planning.

Upon further consideration your Committee on Conference has amended the bill by:

- (1) Reinstating both the definition of "grant" in Section 42D-1 and corresponding terminology throughout Chapter 42D; and
- (2) Providing a review process by which an organization not recommended for funding may request reconsideration by the executive coordinating council; and
- (3) Adding a new section stating the reasons why and the amount and rate by which the appropriations contained in the bill exceed the state spending limit to comply with constitutional and statutory requirements.

While your Committee has reinstated the "grant" terminology presently contained in Chapter 42D, it wishes to make clear that the meaning of the term "grant" is not to be limited to a one-time award of funds. Nevertheless, the intent is to view grants as an instrument to encourage innovativeness and, as such, they should not be considered an ongoing means of funding. Your Committee also wishes to point out that the final form of this bill is motivated by a letter of commitment from the administration agreeing to continue dialogue between public agencies and the private sector.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2547, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2547, S.D. 2, H.D. 1, C.D. 1.

Senators Yamasaki, Kobayashi, B., Levin, McMurdo and George.
Managers on the part of the Senate.

Senator George did not sign the report.

Representatives Souki, Baker, Kanoho, Say, Yonamine and Marumoto.
Managers on the part of the House.

STANDING COMMITTEE REPORTS

SCRep. 1600 Judiciary on S.B. No. 132

The purpose of this bill is to amend section 671-4, Hawaii Revised Statutes, by deleting the provision prohibiting the use of ad damnum clauses in medical tort claims. This provision is now redundant, as a prohibition against the use of such clauses is already provided for under section 663-1.3, Hawaii Revised Statutes, which covers tort cases in general.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 132 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Ikeda, McMurdo and Reed.

SCRep. 1601 (Majority) Judiciary on S.B. No. 794

The purpose of this bill is to repeal Hawaii's interspousal tort immunity law.

S.B. No 794 is the companion to H.B. No. 362, C.D. 1, which was enacted last year as Act 234. Act 234 provided for a study on the impact of repealing interspousal tort immunity law on other areas of law. The study entitled, The Abolition of Interspousal Immunity: A Study, confirmed the senate's position (H.B. No. 362, S.D. 1) that interspousal tort immunity should be abolished. The senate's position on H.B. No. 362 is reiterated in this report.

Background on Hawaii's Interspousal Tort Immunity Law

The common law rules of interspousal immunity were based on the premise that a husband and his wife were considered as "one person in law," and that the female's legal identity merged into the male's upon marriage. Among the disabilities thrust upon a woman by marriage was the loss of capacity to contract for herself, or to sue or be sued without joining her husband as a plaintiff or a defendant. Unitary legal status prevented one spouse from acquiring a tort cause of action against the other for harm perpetrated. Even if a claim could be stated, the husband would have been a plaintiff as well as a defendant in any litigation. Thus, the combination of the various incidents of marriage under common law rendered the maintenance of tort laws between husband and wife impossible.

Changes in the American social order brought about an end to the concept of one legal personality in husband and wife. Beginning in the 1840s, statutes known as the Married Women's Acts, or Emancipation Acts, were passed in all American jurisdictions. They were designed primarily to secure to a married woman a separate legal identity and a separate legal estate in her own property.

However, even as other jurisdictions were discarding the concept of a wife's legal subjugation, Hawaii tardily adopted it in 1846 as part of Act I, Statute Laws of His Majesty Kamehameha III. Over a decade later, the Legislative Council reiterated its adherence to the concept when it adopted the Civil Code of the Hawaiian Islands of 1859. It was not until 1888 that a Married Women's Act was enacted in the Kingdom. Chapter XI, Session Laws of 1888, established, inter alia, the right of a married woman to hold real and personal property in her own right, to make contracts as if she were sole, and to sue and be sued in the same manner as if she were sole. As a consequence, Hawaii, like other states, no longer regarded husband and wife as an indivisible legal unit for most legal purposes. However, Section 5 of Chapter X which granted married women the right to sue in their name also provided that this section "shall not be construed to authorize suits between husband and wife." The language of Section 5 of Chapter X remains intact and is codified in Section 572-28 of the Hawaii Revised Statutes.

Hawaii's Married Women's Act has been subjected to extensive amendment since its adoption. Its substance, after being degendered, is presently compiled in part II of Chapter 572, Hawaii Revised Statutes, on Marriage. See Act 46, 1987 Sessions Laws of Hawaii. Also in 1987, Act 194 amended section 572-22 to permit spouses to make valid contracts with each other and to ratify any interspousal contracts already made. Committee reports on Act 194 indicate that, in view of contemporary societal standards, the Legislature found that spouses no longer needed the archaic protections from one another provided under the previous law.

Despite the fact that the times and circumstances that saw the creation of the interspousal immunity law have changed dramatically and despite revisions in other provisions pertaining to married women that reflect these changes, the interspousal immunity law has remained virtually unchanged. Because the Hawaii courts have found that this law gave definite legislative provenance to interspousal tort immunity, see Peters v. Peters, 63 Hawaii 653, 658, 634 P.2d 586, 590, interspousal tort immunity has also been judicially preserved. Hawaii is one of very few states (and the number is quickly dwindling) in which interspousal immunity has not been abrogated in some manner either by statute or case law.

The issue before your Committee is whether the interspousal immunity should be abolished as to tort claims between spouses. Given that the unitary legal theory has legislatively eroded, your Committee must determine whether a valid rationale for interspousal tort immunity continues to exist.

Reasons for Retention of Interspousal Tort Immunity

The public policies most frequently cited in favor of interspousal tort immunity are the preservation of marital harmony, and the prevention of collusive suits.

1. Marital harmony. The policy which has been argued most frequently in favor of continued immunity is that permitting suits would create, or exacerbate disharmony because of the adversarial roles that litigants are required to adopt.

It is argued that intentional tort cases could jeopardize peace by creating tension that increases throughout the tort litigation process. Merely filing suit could end a marriage or drastically reduce the possibility of reconciliation. Pleadings may include bitterly contested accusations that are embarrassing and humiliating and which reopen old wounds. During discovery and trial, parties become more adversarial, incidental to proving the allegations in their pleadings. These cases are unlikely to settle, becoming matters of principle, and the parties are not influenced by pressures that insurers can exert. Trial means embarrassing media coverage, and any relief awarded will be divisive because the defendant must pay the damages and may resent the remedy's imposition for other reasons.

Domestic peace may be disturbed even in negligence actions where intentional behavior is absent and insurance coverage ostensibly insulates the marriage from certain tensions. Filing of suit, use of different counsel and their admonitions against discussing the case can be unsettling. Recriminations for the defendant's negligent behavior may be disruptive, as allegations made in the complaint continue throughout discovery and culminate at trial.

Your Committee finds the marital harmony argument is deficient in important respects.

When the tort is intentional as in the case of domestic violence, it is often unrealistic to say that there is a state of peace and harmony left to be disturbed. When spouses deliberately hurt one another, civil litigation will not further endanger harmony because none remains to be preserved. Moreover, the value of attempting to maintain harmony may be debatable in certain circumstances. For example, the interests of family members and society might be better served by ending, rather than saving, marriages in which physical abuse occurs.

In negligence actions, the unintentional character of the conduct and the widespread existence of insurance may minimize potential disruption. The behavior generally lacks the moral reprehensibility, disregard for another's dignity, and insensitivity inherent in willful activity. Moreover, insurance diminishes the possibility of discord because insurance will pay for defense of the suit and any damages awarded. Litigation can actually promote tranquility, especially when successful tort actions eliminate economic burdens, like lost wages and medical expenses, imposed upon families by negligently caused interspousal harm for which payment otherwise could not be recovered.

Finally, the marital harmony argument is premised on the paternalistic assumptions that husbands and wives cannot safeguard their own relationships. While this may have been a valid public policy at the time of the enactment of the interspousal immunity law, it is now clearly archaic.

2. Fraud and Collusion. Another rationale for retaining immunity is the fear that allowing husbands and wives to sue each other will result in fraud and collusion, especially when insurance companies are the real parties in interest. It has been argued that the threat of fraud, inherent in all negligence suits when the defendant has insurance coverage, is greater in interspousal tort actions. The litigants, husband and wife, ordinarily have an intimate personal and confidential relationship. Liability insurance also substitutes the prospect of profit for the risk of financial loss. That potential loss can be great, especially when the victim suffers serious injury and neither other coverage nor familial resources are available. This means that each party and the rest of the family will benefit from a judgment for the plaintiff and will be affected adversely by a verdict for defendant. Moreover, the tortfeasor could profit from the initial wrongdoing by sharing in the recovery. There also may be powerful temptations to fabricate claims, exaggerate the gravity of the defendant's conduct and the severity of the damage suffered, admit liability and conceal potential defenses.

Your Committee, however, finds that this argument fails to acknowledge the safeguards available within the tort litigation system. Safeguards do exist, as early as the time of injury, to protect courts against fraud by spouses. For instance, independent witnesses may have observed the allegedly harmful behavior, and the insured is obligated to cooperate with his or her insurance carrier. During discovery, several techniques can be employed to guard against colluding plaintiffs and defendants. Similarly, many procedures available at trial afford protection. For example, defense counsel's cross-examination may expose dishonest conduct. The testimony of spouses will be especially susceptible to impeachment on the basis of partiality and interest. The trial judge's obligation to instruct jurors on witness credibility and requirements respecting the weight of evidence remain the same in these cases. Moreover, juries in general are quite capable of ascertaining the falsity of claims that present as much potential for incorrect activity as interspousal suits. Furthermore, when a trial judge believes that jurors have failed to detect fraud or collusion, he or she can always modify the jury determination. Finally, people may be deterred from acting improperly by the rigorous efforts of insurance companies and defense counsel and by the threats of criminal prosecution.

As stated by the Hawaii Supreme Court in Campo v. Taboada, 68 Hawaii 505, 720 P.2d 181 (1986):

"...this threat is no greater than that posed between friends. If we can trust our courts to discourage collusive suits between other related parties, then we can trust them to ferret out fraudulent claims in this situation."

Id. at 508, 720 P.2d at 183. Although Campo involved a third party action for contribution between a husband and a wife under the Uniform Contribution Among Tortfeasors Act, this rationale can apply equally to other tort actions as well.

The collusion rationale does not seem to be supported by the experience of states eliminating the doctrine of interspousal tort immunity, is overinclusive, and frustrates achievement of the compensatory goal of tort law. Your Committee finds the fraud and collusion argument unpersuasive.

3. Interspousal privilege. Another argument occasionally raised by opponents of the abolition of interspousal immunity is the concern that problems will be created because of interspousal privileged communication. Your Committee, however, finds that the interspousal privilege should be treated no different than the privilege between a doctor and patient, or between an attorney and client. In cases involving legal or medical malpractice, for example, the privilege is waived as to any and all communications relevant to the litigation, and communications are disclosed.

For the foregoing reasons, your Committee finds no valid rationale for the continued existence of the archaic interspousal immunity rule.

Your Committee made a nonsubstantive amendment to the bill, adopting the language proposed in the interspousal immunity study, for purposes of clarity and style.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 794, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 794, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Ikeda, McMurdo and Reed.
Senator Koki did not concur.

SCRep. 1602 Judiciary on H.B. No. 599

The purpose of this bill is to amend Section 612-6, Hawaii Revised Statutes, to provide for fewer exemptions from jury service by removing the special exemptions from jury service.

The substance of this bill was incorporated into H.B. No. 600, H.D.1, pertaining to jury panels, to cover both topics in a single bill -- H.B. No. 600, H.D.1, S.D. 1.

The Governor, in his June 26, 1991 statement of objections to House Bill No. 600, expressed concern about the permanent deletion of provisions allowing claims for exemption from jury service. However, the Governor noted his agreement with the proposed amendments to Section 612-17 and 612-18, Hawaii Revised Statutes, relating to jury panels.

Your Committee, with regard for the Governor's concerns, amended this bill by deleting section 1 regarding jury exemptions, and replaced it with the substance of H.B. No. 600, as originally introduced, pertaining to jury panels. Your Committee also added a conforming amendment to Section 612-15, subsection (b), Hawaii Revised Statutes, deleting reference to jury panels.

The current law requires that trial jurors be placed on panels of eighteen. This requirement creates unnecessary work for Judiciary staff, who must segregate jurors into panels, and wastes juror's time by requiring courts to order jurors by panels rather than by the specific number needed. Your Committee finds that eliminating the requirement for jury panels will use the Judiciary's resources and jurors' time more efficiently.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 599, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 599, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Ikeda, McMurdo and Reed.

SCRep. 1603 Housing and Hawaiian Programs on S.C.R. No. 24

The purpose of this concurrent resolution is urge the President and Congress of the United States to honor and fulfill its federal trust obligations to native Hawaiians as required by the Hawaiian Homes Commission Act.

It is the intent of this concurrent resolution to enable the native Hawaiian beneficiaries of the Hawaiian Homes Commission Act to obtain homesteads and to secure compensation for past breaches of the trust.

Your Committee finds that because the federal government has failed to fulfill its trust obligations by providing financial support and bringing legal claims for breach of trust where appropriate, thousands of native Hawaiian beneficiaries were unable to obtain homesteads during the period from 1921 through 1959 when the United States held legal title to the Hawaiian homes lands. Your Committee further finds that many acres of valuable Hawaiian homes lands were illegally set aside which rendered them unavailable to the beneficiaries. Those lands are occupied by the federal government for nominal compensation to the trust.

Your Committee has amended this concurrent resolution by adding that the Legislature declare its support and authorization of the State's vigorous pursuit of federal claims to restore and strengthen the Hawaiian homes lands trust, and by making several technical, non-substantive amendments for clarity and style.

Your Committee on Housing and Hawaiian Programs concurs with the intent and purpose of S.C.R. No. 24, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 24, S.D. 1.

Signed by all members of the Committee except Senators Aki and Reed.

SCRep. 1604 Health and Human Services on S.B. No. 1698

The purpose of this short form bill is to amend the Hawaii Revised Statutes relating to health.

Your Committee has amended this bill to provide an appropriation of \$100,000 to the Caring for Pregnant Women - Malama Na Wahine Hapai project.

Your Committee finds that this federally-funded project provides community-based, culturally sensitive prenatal care to minority women in rural areas. Your Committee further finds that this project requires state funds in order meet the demand for services throughout the State.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 1698, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1698, S.D. 1, and be recommitteed to the Committee on Health and Human Services for further consideration.

Signed by all members of the Committee.

SCRep. 1605 Judiciary on S.B. No. 129

The purpose of this bill is to delete from section 831-3.1, Hawaii Revised Statutes, which pertains to the status of convicted persons, a provision giving effect to general law over specific statutes.

Under general rules of statutory construction, a specific law is given effect over a general law on the same subject. This bill conforms section 831-3.1 to this customary rule of statutory construction. In addition, the bill makes technical, nonsubstantive changes to other provisions of that section.

Upon review of the bill, it appeared to your Committee that the bill may have inadvertently deleted more language than was intended. Therefore your Committee amended this bill to insure that the only substantive language omitted is that portion which states that the section prevails over other law governing the denial or issuance of permits.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 129, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 129, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1606 Judiciary on S.B. No. 2200

The purpose of this bill is to repeal Chapter 272, Hawaii Revised Statutes, which now stands as a redundant measure since the enactment of the penal code. The proscription in Chapter 272 against the refusal to pay for transportation fees is already encompassed under sections 708-831, et seq., of the Hawaii Penal Code, as a theft of services.

The Honolulu Department of the Prosecuting Attorney testified that its office has not prosecuted a case under Chapter 272 in recent memory and that the refusal to pay transportation fares is presently being prosecuted under the penal code.

Your Committee finds that this bill serves as a housekeeping measure to remove redundancies in the law and is not to decriminalize the defrauding of carriers of passengers.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2200 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1607 Judiciary on S.B. No. 606

The purpose of this bill is to increase the number of associate justices on the Intermediate Court of Appeals from two to three.

Testimony was submitted in support of the bill by the Judiciary, the Hawaii State Bar Association and a law student.

Your Committee finds that increasing the number of intermediate appellate court judges will help (1) alleviate the growing caseload of the appellate courts, giving the justices more time to consider important decisions and prepare published opinions; and (2) improve the time within which appeals can be heard, thereby reducing the incentive to use appeals as a legal tactic to delay execution of judgments or other actions of our lower courts.

Your Committee amended the bill to include an appropriation provision, leaving the amount to be addressed by the Committee on Ways and Means, and to change the effective date to July 1, 1992.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 606, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 606, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1608 Judiciary on S.B. No. 805

The purpose of this bill is to give the State Ethics Commission the authority to set the salary of its executive director by deleting reference to the director's salary from section 84-35 of the State Ethics Code.

Your Committee received testimony in support of the bill from the State Ethics Commission and Common Cause Hawaii.

Your Committee finds that the current law, which statutorily sets the salary of the State Ethics Commission's executive director, not only sets the commission apart from comparable commissions, boards and offices, but also creates an appearance of impropriety in that it appears to give the legislature control over the head of the commission that administers, renders legal advice on and enforces the laws that prescribe the conduct of government and public officials. Your Committee finds that this bill will rectify this situation.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 805 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1609 Judiciary on S.B. No. 2213

The purpose of this bill is to provide monies to the Family Court to fund divorce seminar programs on the Big Island for parents and children involved in divorce.

In support of the bill, the Judiciary testified that recent research shows that a large proportion of children from divorced families develop serious emotional and social problems as they enter adulthood. Parents can alleviate some of the problems if they have the basic information about what to do and what not to do during the divorce. The proposed program will provide parents with information about how to best help their children through the divorce process. The Judiciary further testified that a program similar to the one proposed has been in operation on Maui for the past three years and has been very well received by both parent and child participants.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2213 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1610 Health and Human Services on S.B. No. 2383

The purpose of this bill is to provide an exemption from the general excise tax for amounts received from the purchase of health care services and supplies by persons who are 65 years of age or over.

Your Committee finds that the general excise tax when applied to health care services and supplies is regressive, because it taxes everyone equally regardless of their ability to pay. Individuals age 65 years and over are especially disadvantaged because they consume more health care services while also living on fixed incomes.

Your Committee received testimony in support of this measure from many advocates of the elderly including the American Association of Retired Persons, Catholic Services to the Elderly, National Association of Retired Federal Employees, and the Waimanalo Senior Citizens Club.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 2383 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Koki.

SCRep. 1611 Health and Human Services on S.B. No. 2396

The purpose of this bill is to authorize the issuance of special purpose revenue bonds not to exceed \$20,000,000 to assist the Rehabilitation Hospital of the Pacific in financing the construction, repair, and maintenance of facilities.

Your Committee finds that the Rehabilitation Hospital of the Pacific is a not-for-profit organization and the only comprehensive medical rehabilitation hospital within the State. Testimony received from the hospital indicates that the savings of approximately \$4.3 million in interest expense through the use of revenue bonds will be passed directly to its patients.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 2396 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Koki.

SCRep. 1612 Health and Human Services on S.B. No. 2422

The purpose of this bill is to authorize the issuance of general obligation bonds to complete the substance abuse treatment unit of Maui Memorial Hospital.

Your Committee received testimony in support of this measure by the department of health indicating that additional funding is necessary to complete this project. This project will serve adolescents on Maui who presently are either sent to Oahu for treatment or are not receiving treatment.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 2422 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Koki.

SCRep. 1613 Health and Human Services on S.B. No. 2534

The purpose of this bill is to eliminate the ceiling on the amount of medical services excise tax credit allowable on a resident individual's tax return.

Your Committee finds that removing the ceiling on this tax credit will further assist individuals whose medical expenses are already burdensome, especially the elderly and chronically ill. Your Committee received testimony from advocates of this measure including the Hawaii Federation of Physicians and Dentists and the American Association of Retired Persons.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 2534 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Koki.

SCRep. 1614 Health and Human Services on S.B. No. 2548

The purpose of this bill is to increase the upper limit on the tax credit for child and dependent care expenses from 25 to 40 percent of the applicable percentage of the employment-related expenses paid by an individual.

Your Committee finds that increasing the upper limit of this credit would assist many employees with limited incomes to remain in the workforce when faced with child or dependent care responsibilities. Testimony submitted by the Hawaii Federation of Physicians and Dentists asserts that this measure will also assist in attracting employees to the health-care field, which continues to experience labor shortages in many occupations.

Your Committee notes that the title to this bill omits the words "Relating to." However, research indicates that this does not render the bill defective.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 2548 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Koki.

SCRep. 1615 Health and Human Services on S.B. No. 2398

The purpose of this bill is to establish a crisis response pilot project in the county of Hawaii to provide 24 hour services for persons who are experiencing extreme mental stress caused by mental or physical illness.

Your Committee finds that the need for mental health services, especially a crisis response team, for the county of Hawaii has been expressed by residents and health and human services workers.

Your Committee has amended this bill as follows:

- (1) Adding an appropriation for start-up funding;
- (2) Deleting the purpose section as being unnecessary to understanding the bill;
- (3) Adding a drop-dead provision of July 1, 1994 because this is a pilot project; and
- (4) Making some technical revisions to the language for the sake of proper statutory drafting without change to the meaning or substance of the bill.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 2398, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2398, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Koki.

SCRep. 1616 Health and Human Services on S.B. No. 962

The purpose of this shortform bill is to amend the Hawaii Revised Statutes relating to health.

Your Committee has amended this bill to establish a Rural Health Care Task Force within the department of health for administrative purposes.

Your Committee finds that adequate health care for people residing in rural areas of the State may not be readily available and therefore these residents may not have equal access to services available in urban areas. Your Committee determines that the Rural Health Care Task Force is necessary to develop a strategy to meet the health care needs of rural residents.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 962, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 962, S.D. 1, and be recommitted to the Committee on Health and Human Services for further consideration.

Signed by all members of the Committee except Senator Koki.

SCRep. 1617 Tourism and Recreation on S.B. No. 2243

The purpose of this bill is to appropriate \$500,000 for recreational development at Keehi Lagoon.

This bill received unanimous support from the Department of Land and Natural Resources, the Department of Transportation, the Department of Business, Economic Development and Tourism, and the Japan-Hawaii Travel

Association. Your Committee finds that in accordance with the Keehi Lagoon Recreational Plan, Keehi Lagoon is currently undergoing recreational improvements in the areas of Hawaiian canoe racing and boating facilities. Many of these programs, including the canoe racing complex, have not been completed. Therefore, your Committee believes that the sum appropriated is necessary to continue and accelerate the recreational development program at Keehi Lagoon.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 2243 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1618 Tourism and Recreation on S.B. No. 2245

The purpose of this bill is to appropriate \$50,000 to organize and host a Pacific basin tourism conference in Hawaii in 1992.

Your Committee heard testimony in support of this measure from the Office of International Relations and the Hawaii Hotel Association. Your Committee finds that Hawaii, as a premier resort destination in the Pacific basin, would be an ideal place to host a 1992 Pacific basin tourism conference. Hawaii can contribute to such a conference not only as a source of expertise in resort development, but can also offer specialized talents in planning, engineering, architecture, education, training, and marketing.

Your Committee on Tourism and Recreation is in accord with the intent and the purpose of S.B. No. 2245 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1619 Tourism and Recreation on S.B. No. 2443

The purpose of this bill is to appropriate funds for the planning, design, and construction of a skateboard facility in Kaiaka State Recreation Area.

Your Committee finds that the Kaiaka State Recreation Area is a largely open, fifty-three acre park on the North Shore of Oahu which is scheduled for transfer to the City and County of Honolulu. Your Committee agrees with testimony submitted by the Director of the City Department of Parks and Recreation indicating that the development of a "skate park" in the recreation area would provide a unique opportunity to enhance recreational skating in Hawaii without undermining either the aesthetics or planned activities within the park.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 2443 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1620 Tourism and Recreation on S.B. No. 2444

The purpose of this bill is to appropriate \$200,000 for fiscal year 1992-1993 to the visitor industry education council.

The sum appropriated will be used to produce a video, prepare curriculum materials, expand a teacher/counselor internship program, and create a state-wide media campaign on the benefits of tourism. These funds will be matched by dollars and in-kind services from the visitor industry and business community.

Your Committee finds that these projects are in conformance with the objectives of the Legislature by creating a greater awareness of tourism's positive contributions to the community and by promoting an interest in careers in the visitor industry.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 2444 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1621 Tourism and Recreation on S.B. No. 2445

The purpose of this bill is to appropriate \$70,000 as a grant-in-aid for the festival of the Pacific.

Your Committee finds that the festival of the Pacific is an important marketing event for Hawaii's visitor industry, showcasing Hawaii's rich heritage, unique customs, and multi-cultures through visual and performing arts. The festival was specifically created in 1984 to stimulate tourism during the off-season in early June.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 2445 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1622 Tourism and Recreation on S.B. No. 2421

The purpose of this bill is to adjust the respective shares of the State and counties in the revenues collected under the transient accommodations tax.

Your Committee heard testimony from the Director of Taxation indicating that the administration is not opposed to the bill as long as there is no reduction in the percentage of revenues retained by the State. The modified percentage figures have been left blank, as in the bill as introduced, for consideration by the Committee on Ways and Means.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 2421 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1623 Tourism and Recreation on S.B. No. 2452

The purpose of this bill is to authorize the issuance of general obligation bonds and to appropriate \$2,000,000 for the placement of utility wires, cables, and related equipment underground in the area designated as the Diamond Head bikeway.

Diamond Head, a premier tourist and recreational destination, is recognized as both a State and a National monument. Diamond Head Road provides access to the Diamond Head State Monument and Diamond Head Recreational Park, and is the preferred route from Waikiki to east Oahu for many people. As such, Diamond Head Road is heavily traveled daily by tourists and Hawaii residents alike.

Your Committee heard testimony from numerous Diamond Head residents who strongly supported this bill, indicating that the placement of utility poles and wires underground in the area of the Diamond Head bikeway would not only enhance the natural beauty of the area, but would also allow for safer public access. Numerous serious accidents along Diamond Head Road have involved vehicles hitting utility poles placed too close along the roadway.

Therefore, your Committee finds that the improved public safety and the enhanced visual quality of our State monument resulting from the placement of utility wires and cables underground in the area of the Diamond Head bikeway would ultimately benefit the residents of Hawaii as well as our visitors.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 2452 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1624 Health and Human Services on S.B. No. 2223

The purpose of this bill is to establish a Liaison Program in the Departments of Human Services and Health to facilitate delivery of perinatal services utilizing the "one-stop shopping" concept.

The target group for services will consist of Medicaid and welfare eligible mothers and infants. The Directors of Human Services and Health will monitor the Liaison Program and submit joint status reports to the 1993, 1994, and 1995 legislatures. The Liaison Program will be repealed on June 30, 1995.

Your Committee finds that perinatal services are necessary to enhance the health and well-being of infants and their mothers; however, often these services are not accessible to or utilized by Hawaii's lower income families. This bill presents an innovative interdepartmental method of expediently providing the target group access to perinatal services.

Your Committee has amended this bill by:

- (1) Requiring the Department Directors to include in the status reports recommendations for funding one liaison position for each Department;
- (2) Requiring ongoing Liaison Program evaluations;
- (3) Appropriating an unspecified sum, effective July 1, 1992, to be expended by the Department of Human Services in fiscal year 1992-1993 to carry out the purposes of this bill; and
- (4) Making technical changes that have no substantive effect.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 2223, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2223, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1625 Health and Human Services on S.B. No. 2399

The purpose of this bill is to establish the youth service and conservation corps within the department of labor and industrial relations.

Your Committee finds that the youth of our State could greatly benefit from a job training program which promotes conservation, environmental protection, and general regard for the health and welfare of our residents. Testimony in support of this program was received by the department of labor and industrial relations.

Your Committee has amended this bill by:

- (1) requesting an appropriation of \$100,000 in start-up funds for the program; and
- (2) inserting the word "special" in the description of the youth service and conservation corps fund to more accurately reflect its status as distinct from the general fund.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 2399, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2399, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1626 Health and Human Services on S.B. No. 2463

The purpose of this bill is to appropriate \$3,578,500 to be expended by the Department of Health in fiscal year 1992-1993 to enhance maternal and child health programs and services in Hawaii.

Specifically, the bill appropriates \$675,000 for establishment of seven new perinatal support teams throughout the State; \$1 million to expand family planning information and education programs; \$653,500 to improve the immunization level of children; \$650,000 for provision of perinatal substance abuse treatment services to pregnant women on Kauai and Maui; \$200,000 for a lead poisoning education and screening program for children; and \$400,000 to expand primary health care services to Medicaid-eligible children.

Your Committee finds that this bill will profoundly and positively impact on the health and well-being of Hawaii's mothers and infants and represents a significant step toward reducing Hawaii's infant mortality rate.

Your Committee has amended this bill by providing for eight, rather than seven, new perinatal teams throughout the State, adding \$150,000 to the appropriation for that item, and by increasing the appropriation for the lead poisoning program from \$200,000 to \$300,000. As amended, the total sum appropriated is \$3,828,500. Your Committee has also made some technical changes that have no substantive effect.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 2463, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2463, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1627 Health and Human Services on S.B. No. 2884

The purpose of this bill is to request an emergency appropriation for the state medical assistance (Medicaid) program.

Your Committee finds that a critical funding emergency exists whereby the Medicaid program will experience a shortfall in state funding before the end of the fiscal year. According to testimony submitted by the department of human services, this shortfall is due to increasing health care costs and growing service utilization rates. Your Committee further finds that if this emergency appropriation is not provided, the program will be forced to reduce or discontinue services.

Your Committee has amended the bill by changing the appropriation to reflect the same amount as is requested in the House companion measure, and increasing the department's federal spending ceiling.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 2884, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2884, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1628 Health and Human Services on S.B. No. 2543

The purpose of this bill is to amend the definition of "volunteer" within chapter 90, Hawaii Revised Statutes, to include foster parents.

Your Committee finds that foster parents provide crucial services without remuneration to our child welfare system and, therefore, deserve equal rights and privileges afforded under the law to all other state volunteers. Testimony in support of this measure was received by the department of human services.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 2543 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1629 Health and Human Services on S.B. No. 2551

The purpose of this bill is to include a definition of "record" within chapter 350, Hawaii Revised Statutes, relating to child abuse.

Your Committee finds that there is a need to clarify the difference between a "record" and a "report" as used within chapter 350. Testimony in support of this measure was received from the department of human services.

Upon further consideration, your Committee has amended this bill by including in the definition "notes on verbal communications" which are made part of a particular report.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 2551, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2551, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 1630 Health and Human Services on S.B. No. 2395

The purpose of this bill is to make an appropriation of \$150,000 to purchase services of design consultants for a day care facility on the Waianae coast.

Your Committee finds that many families living on the Waianae coast need child care, yet facilities are not available for such services. Testimony submitted by the Waianae Coast Day Care Centers, Inc. indicates that a site has been selected and funding from private sources is being sought for construction of the facility.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 2395 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1631 Health and Human Services on S.B. No. 2474

The purpose of this bill is to appropriate funds for the Waianae adolescent health network.

Your Committee finds that for the past eight years, the Waianae adolescent health network has effectively helped the community to handle its youth health problems. The Waianae coast has high rates of poverty and poor health.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 2474 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1632 Health and Human Services on S.B. No. 2544

The purpose of this bill is to request an appropriation of \$368,614 as a purchase of service for People Attentive to Children (PATCH).

Your Committee finds that PATCH serves an integral part in addressing the state's child care crisis through its resource and referral services. According to testimony submitted by PATCH, these funds will be used to continue to recruit and train family child care providers as well as counsel and assist parents in locating child care.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 2544 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1633 Health and Human Services on S.B. No. 2553

The purpose of this bill is to provide that insurance companies shall not treat a foster child differently from a natural or adopted child of a policyholder and shall not consider that policyholder's foster home to be a business use, for purposes of setting premiums for homeowners and renters property insurance.

Your Committee finds that some foster parents have been unable to pay the higher premiums charged for their property insurance, because their foster home has been mistakenly considered as a business by insurance companies. The insurance division of the department of commerce and consumer affairs has no objection to this bill.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 2553 and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection and Business Regulation.

Signed by all members of the Committee.

SCRep. 1634 Judiciary on S.B. No. 1528

The purpose of this bill is to broaden the offense of bail jumping in the first degree to include those persons who fail to appear in court as ordered in connection with an unclassified felony. Presently the law applies only to those charged with a class A, B, or C felony.

The bill also neutralizes gender language.

Your Committee received testimony in support of the bill from the Honolulu Department of the Prosecuting Attorney, which testified that the deletion of the language in section 710-1024, referring to the classes of felonies, is particularly

needed because many sections outside of the penal code do not specify the class of felony. For example, section 291C-12, Hawaii Revised Statutes, which provides that failure to stop at the scene of an accident involving death or personal injury is punishable by a fine of up to \$1,000 or up to ten years of imprisonment or both, has a sentence that is equivalent to a class B felony and therefore constitutes a felony. See section 701-107, Hawaii Revised Statutes. However, since section 291C-12 does not specify the class of felony, a person who jumps bail in connection with section 291C-12 may not fall within the purview of section 710-1024.

Your Committee finds that this bill clarifies the application of section 710-1024 to felonies not specifically classified as A, B, or C, and therefore closes a possible loophole in the law.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1528 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1635 Judiciary on S.B. No. 2210

The purpose of this bill is to (1) establish a system within the Child Support Enforcement Agency (CSEA) of the Department of the Attorney General to accept child support payments through electronic funds transfer, credit cards or other methods of collection; (2) authorize CSEA to pay a service fee for use of a credit card or electronic funds transfer service; and (3) authorize CSEA to adopt rules as may be necessary for purposes of this bill.

Your Committee received testimony in support of the bill from the Hawaii State Commission on the Status of Women.

CSEA submitted testimony supporting the concept of collecting payments through credit card and electronic funds transfer but expressed the following concerns:

- (1) There are insufficient funds to pay the costs associated with a credit card service. However, there is related legislation that would, if passed, authorize CSEA to use monies earned from an interest-bearing account for child support payments to offset costs and therefore pay for credit card service fees.
- (2) There are insufficient resources to implement electronic funds transfer service at this time. However, a fully automated system is being developed and electronic funds transfer will be considered for inclusion in the system which is expected to be fully operational by 1994.

Your Committee finds that the language contained in the bill is permissive, not mandatory. Thus, if there are insufficient funds or resources to develop a system, CSEA is not required to establish one. Furthermore, if there is no system, rules pertaining to the system are unnecessary.

However, because electronic funds transfer and credit cards provide additional tools to expedite the payment of child support obligations, your Committee urges that the system be established and made available as soon as possible.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2210 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1636 Health and Human Services on S.B. No. 2381

The purpose of this bill is to request an appropriation to provide statewide mental health services for seriously ill children and adolescents.

Your Committee finds that mental health services for our youth are sorely inadequate and many are not being served. This conclusion is supported by the Child and Adolescent Mental Health Task Force whose testimony indicates that approximately ninety percent of adolescents with serious mental and emotional disorders do not receive appropriate services. Your Committee further finds that residential treatment services of the type being proposed by this measure are more cost-effective and desirable than services provided within an institutional setting. Testimony submitted by the department of health indicates that a portion of this funding would assist with the continuation of ongoing purchase of service agreements which may be in jeopardy due to a funding shortfall.

Upon further consideration, your Committee has amended this bill to provide funding for those programs within the department of health which are most urgently needed. Your Committee has also provided additional support staff to assist with the administration of these new or expanded programs.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 2381, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2381, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Koki.

SCRep. 1637 Health and Human Services on S.B. No. 2550

The purpose of this bill is to establish a demonstration project to provide respite services for foster parents on Oahu.

Your Committee finds that foster parents are a valuable resource in caring for children who may need to be temporarily removed from their families and who suffer serious behavioral and psychological problems. The foster parents' role is to

meet the special needs of these children and yet they also need intervals of rest and relief from the stresses of caring for these children. Your Committee further finds that a demonstration project would be an appropriate vehicle to test the demand for and usefulness of respite services for foster parents.

Your Committee has amended this bill by:

- (1) creating a two-year demonstration project through session law rather than by statute, and requiring the department of human services to submit a report prior to the end of the demonstration period;
- (2) establishing a sunset date at which time the legislature may consider whether the demonstration project should become a permanent program; and
- (3) making technical changes which do not affect the substance of the bill.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 2550, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2550, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Koki.

SCRep. 1638 Housing and Hawaiian Programs on S.B. No. 3247

The purpose of this bill is to amend the laws of Hawaii relating to the Housing Finance and Development Corporation.

Your Committee has amended this short form bill by inserting two appropriations for fiscal year 1992-1993 to be expended by the Housing Finance and Development Corporation to enable the Hana Affordable Housing and Community Development Corporation to design and construct site improvements and infrastructure for a self-help affordable housing subdivision on land donated by Hana Ranch.

Specifically, \$150,000 is appropriated for the Hana Affordable Housing and Community Development Corporation's administrative costs relating to the project, and \$2,000,000 is appropriated for design and construction of site improvements and infrastructure for the self-help housing subdivision.

Hana is the most economically depressed area of Maui where personal income is lowest and housing costs are highest. Self-help housing development is an established, cost-efficient, and practical means of providing affordable housing that your Committee finds to be appropriate to the housing needs of Hana residents, especially since land has been donated by Hana Ranch for that purpose.

Your Committee further finds that the Hana Affordable Housing and Community Development Corporation is a nonprofit corporation that has the capability of developing a self-help affordable housing subdivision in Hana, and that these appropriations are consistent with public policies relating to development of affordable housing.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of S.B. No. 3247, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3247, S.D. 1, and be recommitted to the Committee on Housing and Hawaiian Programs for further consideration.

Signed by all members of the Committee.

SCRep. 1639 Ways and Means on H.B. No. 72

The purpose of this bill is to authorize funds for the expenses of the Legislature up to and including June 30, 1993. This bill also provides funds for the legislative support agencies during the 1992-1993 fiscal year.

Specifically, this bill provides for the following appropriations:

SENATE AND HOUSE OF REPRESENTATIVES

Your Committee approves the sum of \$4,802,459 for the Senate and the sum of \$6,264,763 for the House of Representatives. Your Committee finds that these sums are necessary to meet the operating costs of the Legislature, including such items as equipment, supplies, staff services, and other fundamental expenses.

LEGISLATIVE AUDITOR

Your Committee approves the appropriation of \$1,854,000 to meet the basic operating budget of the Office of the Legislative Auditor. This bill also includes \$150,000 for special studies and other purposes to be jointly determined by the President of the Senate and the Speaker of the House of Representatives.

LEGISLATIVE REFERENCE BUREAU

Your Committee approves the appropriation of \$2,221,705 for the Legislative Reference Bureau.

OMBUDSMAN

Your Committee approves the appropriation of \$711,508 for the Office of the Ombudsman.

STATE ETHICS COMMISSION

Your Committee approves the appropriation of \$552,006 for the State Ethics Commission.

LEGISLATIVE INFORMATION SYSTEM

Your Committee approves the appropriation of \$500,000 for the Senate and the appropriation of \$500,000 for the House of Representatives. Your Committee finds that these appropriations are necessary to defray the expenses of the legislative information system.

LAPSE OF FUNDS

Appropriations under this bill are subject to lapse on June 30, 1993.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 72, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Hagino.

SCRep. 1640 Ways and Means on S.B. No. 2884

The purpose of this bill is to request an emergency appropriation for the state medical assistance (Medicaid) program.

Your Committee finds that a critical funding emergency exists whereby the Medicaid program will experience a shortfall in state funding before the end of the fiscal year due to unanticipated increases in health care costs and a growing service utilization rate. Your Committee further finds that if this emergency appropriation is not provided, the Medicaid program will be forced to reduce or discontinue direct services.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2884, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 1641 Tourism and Recreation on S.B. No. 1274

The purpose of this bill is to limit the liability of private landowners who enter into an agreement with the Department of Land and Natural Resources for the purpose of allowing public use of their property under the statewide trail and access system.

This bill received unanimous support from the Department of Land and Natural Resources, the Sierra Club, the Kuilima Development Company, the Department of Parks and Recreation of the City and County of Honolulu, and Life of the Land.

Your Committee finds that increasing liability concerns pose a major barrier to trail and access development over much of Hawaii's privately owned mountain, forest, and beach areas. By establishing agreements to defend and indemnify private landowners who allow public use of their property, this bill would encourage private landowners to open up their lands to the public for recreational purposes, thereby providing greater access for residents and visitors to experience Hawaii's precious natural resources.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 1274 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 1642 Tourism and Recreation on S.B. No. 2282

The purpose of this bill is to appropriate \$70,000 for the production of a videotape of the 1992 Hawaiian international supercross motorcycle competition for distribution to the mainland and international tourism markets.

Your Committee finds that the production of this videotape would serve to promote Hawaii as an attractive tourist destination as well as the sports capital of the Pacific.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 2282 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1643 Tourism and Recreation on S.B. No. 2489

The purpose of this bill is to provide facilities for outrigger canoe paddling activities by appropriating \$100,000 for the relocation of the Kahului Harbor canoe storage facility on Maui.

Your Committee heard testimony from the Department of Transportation and the Department of Land and Natural Resources in support of this measure. Your Committee finds that this project is in conformance with the state goal of preserving and promoting the ancient Hawaiian sport of outrigger canoe paddling. Furthermore, Kahului Harbor is the only sheltered area on the northern coast of Maui where outrigger canoe paddling training and events can be safely conducted.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 2489 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1644 Tourism and Recreation on S.B. No. 3051

The purpose of this bill is to authorize the issuance of general obligation bonds and to appropriate \$250,000 for the planning, design, and construction of a West Hawaii shooting range.

Your Committee heard testimony in support of this measure from the Director of Parks and Recreation of the County of Hawaii indicating that there is a critical need for a public shooting range on the Island of Hawaii. Currently, there is a growing safety and liability concern about the thousands of hunters and recreational shooters who, having no place to legally practice, are engaging in target practice or sighting-in activities in remote, state-owned areas around the island.

Your Committee finds that the development of a West Hawaii shooting range would provide a safe and regulated facility for hunter education, recreational shooting, law enforcement training, and other related target sport activities.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 3051 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1645 Tourism and Recreation on S.B. No. 3362

The purpose of this bill is to appropriate funds to establish a lifeguard training center on the island of Oahu.

Your Committee agrees with testimony submitted by the Director of Parks and Recreation of the City and County of Honolulu in support of a facility planned and designed specifically as a lifeguard and water safety training center.

Your Committee finds that the establishment of a lifeguard training center on Oahu would provide an organized program of innovative rescue and lifeguarding techniques as well as other instructional classes such as Learn to Swim and Jr. Lifeguard training. Your Committee believes that this facility could become the center of water safety training activities for the State of Hawaii as well as the Pacific Basin.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 3362 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1646 Tourism and Recreation on S.B. No. 3386

The purpose of this bill is to appropriate funds for the identification of state recreation areas in the lower Puna district to replace those which were recently destroyed by volcanic activity.

Your Committee heard testimony from the Department of Land and Natural Resources indicating their willingness to work with the County of Hawaii to identify potential recreation sites in the lower Puna district to replace the County's Harry K. Brown Beach Park and the Kalapana Beach Park which were destroyed by recent lava flows.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 3386 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1647 Tourism and Recreation on S.B. No. 2423

The purpose of this bill is to designate 10% of the transient accommodations tax (TAT) revenues allocated to each county for tourism marketing activities to promote hotel properties.

Your Committee agrees with testimony submitted by the Hawaii Hotel Association and the Maui Hotel Association, indicating that because the Hawaiian economy is dependent to a large extent on tourism and tourist-related services, it should be mandatory for each county to designate a set portion of its budget for marketing and promotion of this critical industry.

Your Committee adopted the recommendations of the Department of Business, Economic Development, and Tourism and the Hawaii Visitors Bureau by broadening the scope of this measure to designate funds for the promotion of not only the hotel properties but the entire visitor industry. These designated moneys will be administered by the respective

counties in concurrence with the Boards of Directors of the local chapters of the Hawaii Visitors Bureau and the Hawaii Hotel Association.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 2423, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2423, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1648 Tourism and Recreation on S.B. No. 2757

The purpose of this bill is to appropriate \$50,000 for the establishment of a Masters Rugby Tournament to be held annually in Hawaii.

Your Committee heard testimony in support of this measure from the Hawaii Rugby Football Union, Pan Pacific Sports, and Pose Publications. Your Committee agrees with testimony indicating that the establishment of a Masters Rugby Tournament would be a tremendous boost to Hawaii's visitor industry during a traditionally slow period. The proposed event is expected to attract thirty to fifty teams resulting in an anticipated 2,500 new visitors to Hawaii.

Your Committee finds that the long-term benefits of establishing a Masters Rugby Tournament will be very significant for Hawaii's tourist industry and overall economy.

Your Committee has made a technical, nonsubstantive amendment to the bill to correct a spelling error.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 2757, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2757, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1649 Science, Technology and Economic Development on S.B. No. 1526

The purpose of this bill is to exempt shared telecommunication services of hotel complexes from public utilities commission regulations.

Your Committee finds that telecommunication services provided by private companies to hotels will become increasingly important to the State's tourism industry as global competition for tourism increases.

Your Committee has amended the bill to also exempt the providing of shared telecommunications services to a telework center from public utilities commission regulations.

Your Committee on Science, Technology and Economic Development is in accord with the intent and purpose of S.B. No. 1526, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1526, S.D. 1, and be recommitted to the Committee on Science, Technology and Economic Development for further consideration.

Signed by all members of the Committee.

SCRep. 1650 Tourism and Recreation on S.B. No. 2522

The purpose of this bill is to appropriate funds to plan, design, and install a bike lane from Makaha Beach Park to Yokohama "Keawaula" Beach Park.

Your Committee agrees with testimony submitted in support of this measure by the Department of Transportation indicating that due to safety concerns, there is a need for a bike lane from Makaha Beach Park to Yokohama Beach Park.

Your Committee adopted the recommendation of the Department of Transportation by amending section 2 of this bill to reflect the Department of Transportation as the expending agency rather than the Department of Accounting and General Services.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 2522, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2522, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1651 Tourism and Recreation on S.B. No. 2639

The purpose of this bill is to appropriate funds for the design and construction of a recreation/sports complex for Kapolei, Oahu.

This bill received unanimous support from Royal Hawaiian World Sports, Hawaii Soccer Association, and the Department of Business, Economic Development, and Tourism. Your Committee finds that this project would serve to promote Hawaii as an attractive tourist destination as well as the sports capital of the Pacific. Furthermore, the development of a sports facility in West Oahu would provide local children with the opportunity not only to practice and train in an adequate facility, but also to witness some of the world's finest athletes perform.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 2639 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1652 Tourism and Recreation on S.B. No. 3039

The purpose of this bill is to appropriate \$100,000 for the support of the World University Rowing Challenge in Hawaii.

Your Committee finds that this world-class sporting event will be a tremendous boost to Hawaii's visitor industry at a time when the tourist season is at a downturn. The event is expected to attract over 2,000 participants from sixty countries along with their families, friends, and other new visitors. The planned international media coverage will serve to promote Hawaii as an attractive tourist destination.

Your Committee finds that the long-term benefits of hosting the proposed World University Rowing Challenge will be very significant for Hawaii's tourist industry and overall economy.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 3039 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1653 Transportation and Intergovernmental Relations on S.B. No. 3054

The purpose of this bill is to establish an open taxi management corporation to implement an open taxi management system at the Honolulu International Airport.

Your Committee finds that there is a need to foster competition and to provide access to Honolulu International Airport to all taxi operators.

Your Committee has amended the bill to place the corporation within the department of commerce and consumer affairs instead of the department of transportation for administration purposes. Also, the five voting members on the board of directors will be selected from all segments of the Oahu taxi services without limitation to the five largest taxi companies.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 3054, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3054, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1654 Transportation and Intergovernmental Relations on S.B. No. 3456

The purpose of this bill is to provide funds for the design and construction of civil air patrol hangars and facilities throughout the State.

Your Committee finds that the civil air patrol renders invaluable service in its mission to assist in search and rescue operations and early warning in case of natural disasters. Present civil air patrol facilities are inadequate to properly support its mission.

The department of transportation and the Hawaii Wing of the civil air patrol testified in support of the bill.

Your Committee has amended the bill by substituting the department of transportation figures for the individual projects, resulting in an increase of \$1,050,000 in the total amount of the appropriation.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 3456, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3456, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1655 Science, Technology and Economic Development on S.B. No. 2309

The purpose of this bill is to provide an energy tax credit for energy generating plants using OTEC technology.

Your Committee finds that OTEC energy is a viable, renewable, nonpetroleum source of energy, and it would be in the State's interest to support commercial development of it through tax credits.

Your Committee has amended the bill to redefine "energy generating plant using OTEC technology", to provide a ceiling of ten million dollars on the tax credit, and to have the tax credit apply to only the first commercial OTEC plant that is developed which has a net generating output of at least one megawatt.

Your Committee on Science, Technology and Economic Development is in accord with the intent and purpose of S.B. No. 2309, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2309, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1656 Science, Technology and Economic Development on S.B. No. 2313

The purpose of this bill is to replace "alcohol fuels" with "clean fuels" for qualification for excise tax exemption.

Your Committee finds that passage of the bill would reaffirm the State's commitment to expanded use of alternative transportation fuels to provide a cleaner environment and decrease the State's dependence on imported oil.

Your Committee has amended the bill to clarify the definition of "clean fuels," to provide for a biennial report to the governor and legislature, to delay the effective date, and to provide a sunset provision to ensure periodic review by the legislature.

Your Committee on Science, Technology and Economic Development is in accord with the intent and purpose of S.B. No. 2313, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2313, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1657 Science, Technology and Economic Development on S.B. No. 2316

The purpose of this bill is to appropriate funds to plan and design the Spark Matsunaga national center for renewable energy research at Keahole Point on the island of Hawaii.

Your Committee finds that renewable energy research is consistent with the State's goal to reduce its dependence on foreign oil. Further, the stature of a national center at the natural energy laboratory will upgrade and enhance all of its associated programs. While state funds would be used for the initial planning and design of the facility, federal funds would be used to construct and operate the center.

Your Committee on Science, Technology and Economic Development is in accord with the intent and purpose of S.B. No. 2316 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1658 Science, Technology and Economic Development on S.B. No. 2317

The purpose of this bill is to appropriate funds for a feasibility and site selection study and for preliminary engineering design of a thirty-five megawatt, hydroelectric power plant that would use the exchange of seawater to and from a reservoir located at a much higher altitude.

Your Committee finds that the development of hydroelectric power is consistent with the State's goal of energy self-sufficiency. It is therefore in the public interest to have a study conducted to assess potential sites, identify feasible locations, conduct environmental assessments, and draw up preliminary engineering design for a hydroelectric power plant.

Your Committee on Science, Technology and Economic Development is in accord with the intent and purpose of S.B. No. 2317 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1659 Science, Technology and Economic Development on S.B. No. 2344

The purpose of this bill is to provide for an alternative transportation fuels conversion tax credit.

Your Committee finds that financial incentives that encourage residents to use alternative transportation fuels would be consistent with the State's goal to decrease the State's dependence on imported oil and establish a clean fuel program.

Your Committee has amended the bill as follows:

- (1) Substituted "automobile" for "internal combustion engine";
- (2) Disallowed the tax credit to be claimed under section 235-110.7 if claimed under this section;
- (3) Disallowed a refund if the tax credits claimed exceeds the amount of income tax due;
- (4) Changed the effective date from all taxable years after December 31, 1991, to all taxable years after December 31, 1992; and
- (5) Added a sunset provision to ensure legislative review on the effectiveness of the exemption.

Your Committee on Science, Technology and Economic Development is in accord with the intent and purpose of S.B. No. 2344, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2344, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1660 Science, Technology and Economic Development on S.B. No. 2346

The purpose of this bill is to authorize the issuance of special purpose revenue bonds to Hawaiian Electric Company, Inc., and its subsidiaries, for necessary capital improvements.

Your Committee finds that the savings in interest cost from the issuance of the bonds will be reflected in lower electricity rates to consumers and is, therefore, in the public interest.

Your Committee on Science, Technology and Economic Development is in accord with the intent and purpose of S.B. No. 2346 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1661 Science, Technology and Economic Development on S.B. No. 2349

The purpose of this bill is to appropriate funds to complete the subdivision of the Manoa Innovation Center and to construct a six thousand square foot wing that would include a wet laboratory.

Your Committee finds that the development of high technology in Hawaii would help to diversify the State's economic base. It is anticipated that the Manoa Innovation Center will play a significant role in the growth of this industry by supporting the transfer of University of Hawaii biotechnology research to commercial products.

Your Committee on Science, Technology and Economic Development is in accord with the intent and purpose of S.B. No. 2349 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1662 Science, Technology and Economic Development on S.B. No. 2881

The purpose of this bill is to develop a comprehensive, integrated State energy emergency preparedness plan, to appropriate funds for the petroleum products control fund, and to appropriate funds for each of the counties for energy emergency preparedness.

Your Committee finds that a consistent, up-to-date energy emergency plan is necessary to ensure Hawaii's energy emergency response capability in the event of a significant change in the State's supply or demand for petroleum.

Your Committee has amended the bill to include representatives from Hawaiian Electric Company, Inc., Chevron, U.S.A., Pacific Resources Inc., and Matson Navigation Company as members of the governor's energy emergency preparedness advisory committee. Your Committee has also amended the bill to reduce the amount to be deposited into the petroleum products control fund from \$130,000 to \$80,000 and to make technical changes.

Your Committee on Science, Technology and Economic Development is in accord with the intent and purpose of S.B. No. 2881 as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2881, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1663 Science, Technology and Economic Development on S.B. No. 2939

The purpose of this bill is to authorize the issuance of special purpose revenue bonds to assist the Wailuku River Hydroelectric Power Company, Inc. establish a hydroelectric power plant and related facilities on the Wailuku River and Kalohehewa Stream in the county of Hawaii.

Your Committee finds that the establishment of a hydroelectric power plant will help reduce Hawaii's dependence on imported oil and is in the public interest.

Your Committee on Science, Technology and Economic Development is in accord with the intent and purpose of S.B. 2939 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1664 Science, Technology and Economic Development on S.B. No. 3394

The purpose of the bill is to appropriate funds for the operation of a 100 kilowatt, closed cycle, OTEC demonstration plant at Keahole Point.

Your Committee finds that OTEC technology will provide a viable, nonpetroleum source of energy and decrease the State's dependence on imported fuel. A 100 kilowatt, closed cycle demonstration plant would provide a low cost, rapid approach to the development of OTEC in Hawaii and is, therefore, in the public interest.

Your Committee on Science, Technology and Economic Development is in accord with the intent and purpose of S.B. No. 3394 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1665 Science, Technology and Economic Development on S.B., No. 3407

The purpose of this bill is to establish a telecommuting program for State employees.

Your Committee finds that telecommuting would provide an opportunity for employers to increase employee productivity, decrease employee sick leave, increase the labor pool, and improve employee retention. It would also help relieve traffic congestion.

Your Committee has amended the bill as follows:

- (1) Makes the incorporation of a telecommuting work option voluntary rather than mandatory.
- (2) Requires that the department of personnel services coordinate the siting of satellite work stations with the department of accounting and general services.
- (3) Deletes the requirement that the task force's assessment and policy recommendations on the role the State can play in developing an advanced network of fiber optics and ISDN be coordinated with the public utilities commission.
- (4) Decreases the appropriation for the expenses of the telework task force from \$200,000 to \$150,000.
- (5) Adds an appropriation of \$150,000 for the department of personnel services to carry out the purposes of this bill, including the hiring of necessary staff.
- (6) Makes other technical, non-substantive changes.

Your Committee on Science, Technology and Economic Development is in accord with the intent and purpose of S.B. No. 3407, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3407, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1666 Science, Technology and Economic Development on S.B. No. 3410

The purpose of this bill is to provide an income tax exemption for the value of a rebate provided by a utility company on the purchase and installation of an energy conservation measure.

Your Committee finds that the bill is consistent with the Hawaii State Plan. It would promote energy conservation and therefore reduce Hawaii's dependence on imported oil.

Your Committee has amended the bill to include rebates for energy conservation measures provided by a gas utility. The definition of "energy conservation measure" was also amended to reflect the appropriate section of federal law applicable to Hawaii's situation.

Your Committee on Science, Technology and Economic Development is in accord with the intent and purpose of S.B. No. 3410, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3410, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1667 Science, Technology and Economic Development on S.B. No. 3417

The purpose of this bill is to appropriate funds for the design and construction of a biomass gasifier facility on Maui and for the general support of the Pacific international center for high technology research.

Your Committee finds that support of a full scale, biomass gasifier facility would be consistent with the State's goal to reduce Hawaii's dependence on foreign oil. The gas derived from biomass can be used to generate electricity or be converted to methanol, a transportation fuel.

Your Committee on Science, Technology and Economic Development is in accord with the intent and purpose of S.B. No. 3417 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1668 Health and Human Services on S.B. No. 2725

The purpose of this bill is to extend the Autonomy Pilot Project for Hilo and Maui Memorial Hospitals.

Your Committee received favorable testimony from the Department of Health and the State Health Planning and Development Agency.

Your Committee finds that this measure extends the repeal date for the substantive provisions of Act 223, Session Laws of Hawaii 1990, from June 30, 1992 to June 30, 1993. Act 223 established the Autonomy Pilot Project at the Hilo and Maui Memorial Hospitals in an effort to foster more effective and streamlined management practices. If the project is terminated according to the original repeal date of Act 223, the hospitals will lose a number of administrative, fiscal, and operational efficiencies they have gained since the inception of the project.

Accordingly, your Committee believes that an extension of the pilot project would serve to continue the transition from a centralized state hospital administration to an autonomous, nonprofit corporate administration, as originally contemplated by Act 223.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 2725 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1669 Tourism and Recreation on S.B. No. 3369

The purpose of this bill is to amend the laws relating to state parks and recreation areas by establishing the Waimalu Heights State Park. The bill also appropriates funds for the acquisition of the lands that will comprise the site of the park.

Your Committee heard testimony in support of this measure from residents indicating that there is an increasing need for greater park space for the growing Aiea/Pearl City community. Your Committee finds that the establishment of a Waimalu Heights State Park would alleviate concerns regarding pesticide contamination, depletion of the local aquifer, traffic problems, runoff and flooding, and wildlife preservation.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 3369 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1670 Judiciary on S.B. No. 127

The purpose of this bill is to repeal Section 578-2(c)(2)(A), which allows the family court to dispense with an adjudicated, presumed or concerned natural father's consent to the adoption of his child if his child has lived with the mother and a petitioning stepfather for at least a year.

Your Committee received testimony from the Judiciary, which took no position on this bill because there was no clear consensus among the family court judges. According to the Judiciary, one judge supported this bill because of constitutional concerns regarding automatic waiver of parental consent based solely on the minor's one-year residence with the stepfather and because of the potential for abuse of the law by the custodial parent. Furthermore, the Hawaii Supreme Court's decision in Woodruff v. Keale, 64 Hawaii 85, 97 (1981) indicates that automatic waiver of consent may be improper:

We are particularly concerned about the situation in which natural parents...leave their child in an environment where the child is known to be receiving proper care. This may occur where natural and custodial parents voluntarily agree that the latter will provide financially for the child, with no intent on either side of permanently depriving the natural parent of legal custody....[W]e cannot allow a conclusive presumption of intent to arise automatically from conduct which did not import the same.

However, other judges expressed concern that the current provision may be the only option available to a petitioning stepfather when the natural father cannot be located. In these instances, without the current provision, the court may have no choice but to deny adoption of the child by the stepfather even if the court found that such adoption would be in the best interest of the child.

Your Committee recognizes the validity of the concerns expressed by both sides. Therefore, your Committee amended the bill by authorizing the court to dispense with consent of a natural father -- and thus terminate his parental rights -- but only after the court determines that reasonable efforts have been made to obtain his current address. Your Committee believes that this amendment provides a balance between the need to reduce the potential for abuse and address the concerns of the Woodruff court while at the same time provide for a means to waive or dispense with notice should the circumstances warrant it.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 127, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 127, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1671 Judiciary on S.B. No. 1283

The purpose of this bill is to protect the aquaculture industry by defining the theft of any aquaculture product from enclosed premises or possession of such aquaculture product in any other location as theft in the second degree.

Your Committee received supporting testimony from the Department of Land and Natural Resources and the Honolulu Police Department.

The Public Defender opposed the bill on the grounds that (1) it singles out the aquaculture industry for special treatment by increasing the penalty for theft of aquaculture products valued at or under \$300 (thefts that exceed \$300 already fall within the statute); and (2) it is overbroad in that it may encompass more situations than intended, such as the shoplifting of fish from a supermarket if that fish came from an enterprise or research operation.

Your Committee finds that Hawaii's budding aquaculture industry merits special attention. Unlike agriculture crops, aquaculture products are raised under water, so the farmer may not know that theft has occurred until harvest, which could take place a year or more after stocking. Recovery from loss could take several years, and such unplanned surprises could seriously affect cash flow. Theft from aquaculture research facilities can cause devastating losses as

months or years of data must be redone. This bill will help deter the pilfering of aquaculture products from these operations.

In order to clarify that the purpose of the bill is to address those problems unique to the aquaculture industry, your Committee amended the bill by limiting the definition of aquaculture product to products while they are owned by the aquaculture enterprise or agency and included a requirement that a sign be prominently displayed to give notice to potential violators.

Your Committee also deleted the word "commercial" from the definition of aquaculture product, since it is redundant when used to modify an enterprise and may be misconstrued as limiting the type of research agencies protected by this bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1283, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1283, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1672 Judiciary on S.B. No. 2963

The purpose of this bill is to authorize the family court's use of school attendance records as prima facie evidence of a child's nonattendance at school or nonreceipt of education services.

This bill is identical to part of S.B. No. 121, S.D. 1, which passed the Senate during the last legislative session and is currently in the House. Your Committee reiterates the Senate's position with respect to that part of S.B. No. 121, S.D. 1.

In support of the bill, the Department of Education testified that school personnel have spent countless hours attending hearings and trials for truancy arrests and educational neglect cases. Recently, the admissibility of attendance records has been questioned by public defenders, resulting either in cases being dismissed or the need to subpoena teachers and administrators to validate the attendance records at issue. The Department stated that it will welcome any assistance in simplifying the verification procedures.

Your Committee finds that this bill will make truancy proceedings less burdensome for schools and the family court. Your Committee also recognizes that the child is the one most detrimentally affected by a delay in the proceedings.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2963 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1673 Judiciary on S.B. No. 2228

The purpose of this bill is to update the Hawaii Rules of Evidence pursuant to some of the less controversial recommendations made to the Legislature in the Final Report of the Committee on Hawaii Rules of Evidence.

More specifically, the bill:

- (1) Deletes from rule 412 reference to the term "rape", which is no longer used in the Hawaii Penal Code, and clarifies that the shield of rule 412 applies only to evidence offered to prove the character of the victim;
- (2) Conforms the attorney-client privilege in rule 503 to the attorneys' professional responsibility rules and provides for waiver of the attorney-client privilege by a client's representative;
- (3) Modifies rule 608 to allow, at the discretion of the court, the use of independent proof of prior acts of a witness that may be relevant to assessing the credibility of the witness;
- (4) Amends rule 702 to authorize the court, in determining the issue of assistance to the trier of fact, to consider the trustworthiness and validity of the scientific technique or mode of analysis employed by an expert witness;
- (5) Includes "sounds" within the meaning of "writings and recordings" for purposes of original document rule requirement of rule 1001; and
- (6) Neutralizes gender language throughout the evidence code.

The Judiciary submitted testimony in support of this bill.

The Public Defender and a criminal defense attorney expressed two concerns about the proposed changes to Rule 503 on the attorney-client privilege. First, they believe that the proposed amendment to 503(c), which permits a client's representative to waive the attorney-client privilege, impinges on a criminal defendant's constitutional right to counsel and undermines the ability of attorneys to represent their clients. Second, they believe that 503(d)(2), which excludes from the privilege any communications reflecting a client's intent to commit a crime or fraud that the attorney reasonably believes is likely to cause serious harm, may require attorneys to reveal confidences in order to determine if they should be revealed.

Your Committee amended 503(c) by limiting the client's representative's ability to waive the attorney client privilege to civil cases. This change addresses the first concern by applying the change only in civil matters.

With respect to the second concern, your Committee finds that the "reasonably believes" language in 503(d)(2) insulates attorneys who exercise discretion in a manner that is not manifestly unreasonable. In order to protect themselves and their clients, attorneys should, at the first hint that their clients may intend to commit a crime or fraudulent act likely to result in death, substantial bodily harm or substantial injury to financial or property interest, advise their clients that communication of such matters is not privilege. Furthermore, it is your Committee's judgment that this addition to rule 502 is unlikely to generate any further or different problems of ascertaining the applicability of the privilege than are currently being dealt with by the judiciary under other exceptions and exclusions.

Your Committee amended 503(d)(2) by substituting "a" for "the" to conform to the language of the existing exceptions. This is not a substantive change. A similar change was made to 503(d)(7). Your Committee also amended the bill to correct typographical errors.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2228, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2228, S.D.1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1674 Housing and Hawaiian Programs on S.B. No. 2301

The purpose of this bill is to establish and to make an appropriation for a native Hawaiian and Hawaiian Peacemaking Center.

Your Committee finds that alternative forms of dispute resolution which incorporate traditional values and processes such as Ho'oponopono should be available to Hawaiians through the Office of Hawaiian Affairs (OHA). This would help to develop skills and abilities to cope with stressful situations and to put aside dysfunctional behavior. This is already part of OHA's human services plan to address conflict and stress management.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of S.B. No. 2301 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1675 Housing and Hawaiian Programs on S.B. No. 2392

The purpose of this bill is to extend the tolling of the statute of limitations provision to July 1, 1992 for the native Hawaiians right to sue under chapter 673, Hawaii Revised Statutes.

Your Committee finds that the extension is much needed for the filing of civil suits related to pre-1988 breaches to OHA or to the department of Hawaiian homelands. The statute of limitations would run to June 30, 1994.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of S.B. No. 2392 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 1676 Housing and Hawaiian Programs on S.B. No. 2441

The purpose of this bill is to provide funds for attorney's fees for any lessees to implement the Land Reform Act.

It is the intent of this bill to ease the financial burden of the lessees created by the Land Reform Act.

Your Committee finds that the conversion of leasehold land creates substantial financial burdens for lessees.

Your Committee has amended this bill to provide that lessors who are small landowners also receive payment for their attorney's fees. They too suffer financial burdens in fighting the conversions.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of S.B. No. 2441, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2441, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1677 Housing and Hawaiian Programs on S.B. No. 2462

The purpose of this bill is to make an appropriation to the Hui 'Imi Task Force to implement its recommendations to the legislature concerning the coordination of services to Hawaiians.

Your Committee finds that implementation of the recommendations, particularly to establish self-supporting Hawaiian Cultural Centers on each island, is necessary to bring the recommendations to fruition.

Your Committee has amended this bill by providing specific directives to the task force to implement its recommendations and to report back to the legislature on its progress.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of S.B. No. 2462, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2462, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1678 Housing and Hawaiian Programs on S.B. No. 2558

The purpose of this bill is to appropriate \$2,109,000 for fiscal year 1992-1993 to provide for administrative costs, a contingency fund, and low-interest loans for self-help home construction on Panaewa and Keaukaha Hawaiian Home Lands on the island of Hawaii.

Your Committee received supporting testimony from the Department of Hawaiian Home Lands (DHHL), the Office of Hawaiian Affairs, and the Hilo Hawaiian Home Builders Support Group.

Your Committee finds that such an appropriation would assist DHHL in its stated purpose of placing native Hawaiians on Hawaiian Home Lands.

Your Committee has amended the bill to clarify that the appropriation shall be disbursed from DHHL to the Hawaii County Economic Opportunity Council, the agency which is currently managing the existing project.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of S.B. No. 2558, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2558, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1679 Housing and Hawaiian Programs on S.B. No. 2589

The purpose of the bill is to prohibit purchase of residential real property by non-resident aliens.

It is the intent of this bill to preserve residential real property for use and ownership by residents of the State of Hawaii.

Your Committee finds that although foreign investment in commercial real property is beneficial to Hawaii, ownership of residential real property by non-resident aliens is undesirable because it leads to speculation and raises the cost of housing for Hawaii residents. Residential real property is a limited resource which must be protected for Hawaii's people.

Your Committee has amended this bill to include residential apartments and residential condominiums and to clarify the definition of non-resident aliens to include corporations.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of S.B. No. 2589, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2589, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 1680 Housing and Hawaiian Programs on S.B. No. 2637

The purpose of this bill is to provide funds to develop a one-stop social service center to service the population of Ewa Plains.

It is the intent of this bill to provide a homeless shelter on adjacent property and to provide office space to assist persons in obtaining social and health services, education and employment.

Your Committee has amended this bill to state that \$400,000 shall be appropriated and to provide that when the one-stop center and homeless shelter no longer occupy the Fort Barrette bunker, the real property will revert to the federal government.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of S.B. No. 2637, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2637, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1681 Housing and Hawaiian Programs on S.B. No. 2859

The purpose of this bill is to make low-income housing tax credits applicable to banks and financial institutions.

It is the intent of this bill as amended herein to enable lending institutions which participate in the development of low-income rental housing projects to be able to utilize low-income housing tax credits. Currently, these tax credits are not available to lending institutions.

Your Committee has adopted the recommendation of the department of taxation by amending the effective date of the low-income housing tax credit to apply to the net income for the calendar year 1992, and for fiscal year taxpayers, for the fiscal year in which January 1, 1993 occurs.

Your Committee has further amended this bill by rewording the language of the new section as a technical change which does not affect the substance of the bill.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of S.B. No. 2859, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2859, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1682 Housing and Hawaiian Programs on S.B. No. 2890

The purpose of this administration bill is to adopt various housekeeping measures recommended in a study on the rent supplement program and supported by the Hawaii Housing Authority.

Your Committee has amended this bill to make a technical change by substituting the word "elders" for "elderly" as required by Act 67, SLH 1990.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of S.B. No. 2890, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2890, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1683 Housing and Hawaiian Programs on S.B. No. 2913

The purpose of this bill is to clarify provisions for individual housing account deductions for income tax.

Specifically, this administration bill would:

- (1) Clarify that there is no deduction on amounts paid out of the housing accounts within 365 days from the date of opening the account;
- (2) Clarifies that a married couple filing a joint return is allowed a \$10,000 deduction; and
- (3) Clarifies when the 10 per cent penalty applies to the sale of property bought with IHA funds.

Your Committee finds that the intent of the law, to allow individuals to build up savings towards the purchase of their first residence and allowing for a tax deduction for deposits into the IHA, is being subverted by the opening of an IHA account, depositing \$5,000 into it, and closing it a few days later while still taking advantage of the \$5,000 deduction. The intent of this bill, as amended, is to close that loophole.

Your Committee has amended the bill by making a technical change which does not affect the substance of the bill.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of S.B. No. 2913, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2913, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1684 Housing and Hawaiian Programs on S.B. No. 2917

The purpose of this bill is to increase the tax credit for renters.

Your Committee finds that this administration bill is necessary to give tax relief to renters.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of S.B. No. 2917 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1685 Housing and Hawaiian Programs on S.B. No. 3071

The purpose of this act is to authorize the issuance of general obligation bonds for the city and county of Honolulu to purchase the Queen Emma Gardens apartments complex.

Your Committee finds that purchase of the apartments is necessary to keep the rents affordable because the rent restrictions under the federal urban renewal program will expire in 1996. The rents have been steadily increasing since 1987 to where it approaches market prices, making it less affordable.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of S.B. No. 3071 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1686 Housing and Hawaiian Programs on S.B. No. 3088

The purpose of this bill is to appropriate \$2,300,000 for the design and construction of the Keokea waterline to Hawaiian home lands.

Your Committee finds that the money is necessary for infrastructure improvements to land under homestead leases granted from 1985 to 1986. Homesteaders will not be able to move onto their lots until the improvements are in place.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of S.B. No. 3088 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1687 Housing and Hawaiian Programs on S.B. No. 3429

The purpose of this bill is to establish a two year homeless assistance project which provides grants, incentives, and other assistance to property owners who use existing rental units or build new rental units for rental to homeless families for a rental period of five years.

It is the intent of this bill to provide decentralized living units for homeless families and reduce the need to build group homeless shelters in communities hostile to their establishment.

Your Committee finds that although the number of homeless families with children in Hawaii increases each year, the facilities to address the needs of the homeless are still insufficient.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of S.B. No. 3429 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1688 Employment and Public Institutions on S.B. No. 2450

The purpose of this bill is to limit members of exclusive bargaining units to the group life benefits or group life insurance provided by the union, if the union has such programs. Program costs would be paid for by the Public Employees Health Fund (PEHF).

Under current law, an employee whose union has such programs has a choice of coverage under those plans or by the PEHF. This bill precludes such a choice and further excludes an employee who refuses coverage under a union plan from coverage under the PEHF.

Your Committee finds that group life benefit and insurance plans are nonnegotiable items under the Collective Bargaining Law. Since the unions are likely to develop better plans for their members than the State, your Committee finds that this bill strikes a balance between the powers of the State and the needs of its employees.

Your Committee has amended this bill by making technical changes that have no substantive effect.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of S.B. No. 2450, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2450, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1689 Employment and Public Institutions on S.B. No. 2673

The purpose of this bill is to extend the deadlines for public agencies to file public reports with the Office of Information Practices, as required by Section 92F-18(b), Hawaii Revised Statutes.

This bill also releases public agencies from the obligation to comply with any provision of Chapter 92F which would jeopardize receipt of federal funding, services, or other assistance.

Section 11 of Act 192, Session Laws of Hawaii 1989, provided staggered time frames and a final deadline of July 1, 1991 by which all agencies must have submitted their public reports. Act 167, Session Laws of Hawaii 1991, extended the staggered time frames and designated September 30, 1992, as the new final deadline, which is currently codified in Section 92F-18(b). This bill further extends the staggered deadlines and sets yet another final deadline - December 31, 1993 - by which all reports by all agencies must be submitted.

Your Committee finds sufficient reason to excuse the failure of certain agencies to comply with the public report law deadlines. In each case, the failure resulted from unforeseeable circumstances or new requirements or responsibilities which severely reduced the time the agency would otherwise have devoted to meeting the requirement. However, your Committee is reasonably certain that the agencies that have not yet met the reporting requirements will be able to do so within the extended time frames and by the final deadline provided in this measure.

Your Committee further finds that the State's uncertain financial future requires the Legislature to adopt policies and provide mechanisms to ensure continued eligibility and receipt of federal assistance. The provision in this bill relating to noncompliance with portions of Chapter 92F is consistent with this finding and will help resolve conflicts between certain federal and state requirements.

Your Committee has amended this bill by making nonsubstantive technical changes for the purposes of clarity and conformance with recommended drafting style.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of S.B. No. 2673, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2673, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 1690 Employment and Public Institutions on S.B. No. 2740

The purpose of this bill is to clarify the State's obligation to pay Workers' Compensation benefits to a member of the Hawaii National Guard or the Hawaii State Defense Force who is injured while under federal jurisdiction overseas, or to his dependents if the member is killed under such circumstances.

Specifically, the bill provides that Workers' Compensation benefits are not payable to members or dependents under Chapter 386, Hawaii Revised Statutes, if injury or death occurs while members are acting under the jurisdiction of the federal government. It also clarifies that, in cases of injury or death compensable by the federal government, the member or his dependents must first exhaust all federal benefits before becoming eligible for non-duplicative benefits under Chapter 386.

Your Committee finds that Section 386-161 currently requires the State to pay Workers' Compensation benefits to members of the Hawaii National Guard or the Hawaii State Defense Force, or their dependents, even if a member's injury or death occurs overseas in a state of war while the member is acting under federal jurisdiction, and even if federal compensation or benefits are available. The potentially massive payments required under such circumstances would clearly jeopardize the solvency of the state Workers' Compensation Fund.

Your Committee also finds that state benefits should be paid, but only after the member or the member's dependents have exhausted federal compensation for the injury or death.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of S.B. No. 2740 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1691 Employment and Public Institutions on S.B. No. 2874

The purpose of this bill is to authorize the Director of Business, Economic Development, and Tourism to appoint civil service exempt staff.

Your Committee notes that the intent of this bill is to staff the Community-Based Economic Development (CBED) Program, not to grant the Director unlimited authority to hire civil service exempt personnel to carry out the purpose of Chapter 210D, Hawaii Revised Statutes.

CBED was established in 1990 to provide financial and technical assistance to economic development efforts on the local community level. Development and administration of the Program will require a skilled, full-time staff, preferably appointed by the Director to ensure that each member possesses the specific qualities and abilities that the Director deems requisite for successful implementation.

Your Committee finds that the CBED Program will be more effective if the Director is allowed to appoint the staff. Your Committee also finds that the Program is significantly underfunded and cannot possibly meet current requests for CBED financial assistance. In consideration of these issues, your Committee has amended this bill as follows:

- (1) Clarified that the Director's power to employ civil service exempt staff is limited to three employees for the CBED Program and that salaries and benefits shall be paid out of the Hawaii Community-Based Development Revolving Fund;
- (2) Amended Section 210D-4, Hawaii Revised Statutes, to allow the Hawaii Community-Based Development Revolving Fund to receive transferred, donated, or gifted funds, and authorized the Director to transfer \$1,000,000 to this Revolving Fund from the Hawaii Large Fishing Vessel Purchase, Construction, Renovation, Maintenance, and Repair Revolving Fund, which has considerable unencumbered resources, provided that the transfer is accomplished between July 1, 1992 and June 30, 1993; and
- (3) Made several nonsubstantive technical changes for the purposes of clarity and style.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of S.B. No. 2874, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2874, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1692 Employment and Public Institutions on S.B. No. 2891

The purpose of this bill is to authorize the Department of Public Safety to receive private gifts of money or property to be used to carry out the purposes set forth in Chapter 353, Hawaii Revised Statutes.

Previous statutory authority to receive, use, and manage private gifts rested with the Department of Human Services; however, the transfer of corrections functions from the Department of Human Services to the Department of Public Safety omitted the authority to receive and utilize private gifts. This bill will enable the Department of Public Safety to receive such money and property and utilize it for any of the Department's purposes, provided that any terms or conditions appertaining to a gift are honored.

Your Committee finds that this bill is consistent with the intent of the Legislature to transfer certain powers and prerogatives previously enjoyed by other state agencies to the Department of Public Safety.

Your Committee has amended this bill by establishing a separate account in the State Treasury for monetary gifts received pursuant to this bill; allowing income-generating properties to pay for maintenance of non income-generating properties; requiring the Director of Public Safety to approve expenditures of money derived through gifts including money obtained through sale of a gift of property; requiring the Department to maintain records of gifts and issue annual reports; clarifying that use of gifted money or property must conform to the provisions of Chapter 84; and by making several nonsubstantive technical changes for the purposes of clarity and style.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of S.B. No. 2891, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2891, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1693 Employment and Public Institutions on S.B. No. 2895

The purpose of this bill is to appropriate \$822,246.29 for fiscal year 1992-1993 to be expended by the Department of Public Safety to compensate crime victims or their service providers pursuant to Chapter 351, Hawaii Revised Statutes.

Victims are compensated for out-of-pocket medical expenses, loss of earnings, funeral and burial expenses, and pain and suffering arising out of their victimization.

Your Committee has amended this bill by changing the appropriation to \$807,832.17.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of S.B. No. 2895, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2895, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1694 Employment and Public Institutions on S.B. No. 2899

The purpose of this bill is to continue the transfer of public safety functions and personnel to the Department of Public Safety.

The intent of Act 211, Session Laws of Hawaii 1989, was to transfer all state positions and functions relating to public safety from their previous departments to the newly created Department of Public Safety. While most such functions and positions were transferred, some required further study to determine whether they met the criteria of Act 211.

This bill results from that study and transfers security and other law enforcement personnel, both contracted and civil service, from the Departments of Education, Health, Human Services, and the Attorney General to the Department of Public Safety.

Your Committee finds that the transfers of personnel, functions, and authority pursuant to this measure are consistent with the intent and policy established by Act 211.

Your Committee has amended this bill by making some nonsubstantive technical changes for the purposes of clarity and style.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of S.B. No. 2899, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2899, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1695 Employment and Public Institutions on S.B. No. 2902

The purpose of this bill is to authorize the Department of Public Safety to require inmates to make restitution for damage they caused to state property while incarcerated.

The amount of restitution will not exceed the cost of repairing or replacing the state property and would only be authorized after consideration by an adjustment committee. Restitution payments, if authorized, may be deducted from the inmate's prison account or prison earnings.

Your Committee finds that there is widespread precedent for allowing federal, state, and local jurisdictions to require restitution. Your Committee believes that this State should be afforded the same authority as other jurisdictions which have found restitution to be consistent with public corrections policies.

Your Committee has amended this bill by making some nonsubstantive technical changes for the purposes of clarity and conformance with recommended drafting style.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of S.B. No. 2902, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2902, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1696 Employment and Public Institutions on S.B. No. 2924

The purpose of this bill is to delete the automatic repeal of provisions in Act 339, Session Laws of Hawaii 1990, granting retirants and pensioners of the Employees' Retirement System automatic cost of living increases.

Act 339 provided a bonus to retirants and pensioners with ten or more years of service and to beneficiaries of certain deceased retirees, but was scheduled for repeal on June 30, 1995.

Although your Committee agrees with the original intent of Act 339, including its automatic repeal date of June 30, 1995, it believes that the extra benefits provided by Act 339 should not be repealed along with the Act itself. Therefore, your Committee has amended the bill by deleting SECTION 1, reinstating the automatic repeal provision, and adding a proviso making it clear that benefits accruing prior to repeal shall continue.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of S.B. No. 2924, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2924, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1697 Employment and Public Institutions on S.B. No. 2928

The purpose of this bill is to increase the annual early retirement allowance for Class C members of the Employees' Retirement System by decreasing the penalty for retiring before age 62.

Currently, the law provides that the annual allowance of an early retiree shall be equal to the annual allowance that would have been payable had the member not elected early retirement, reduced by one-half percent for each month the member is less than age sixty-two at retirement, or about six percent. This bill changes the reduction to one-quarter percent, which in effect reduces the allowance of an early retiree by about three percent.

Early retirement is encouraged in the public sector to make room for more entry level positions. The State and counties thus save money by reducing the number of employees in the higher pay classifications while paying new employees at the bottom of the scale. Your Committee finds that this bill will make early retirement more palatable for both the employer and the employee without unduly draining public resources.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of S.B. No. 2928 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1698 Employment and Public Institutions on S.B. No. 3317

The purpose of this bill is to encourage state agencies to recycle paper and other materials by allowing them to keep the money thus generated for agency use.

Section 342G-45, Hawaii Revised Statutes, establishes the Office Paper and Other Materials Recovery Program requiring compliance by all city and state agencies by June 30, 1993. This bill provides an incentive for state agencies to comply with this and other similar programs.

Your Committee finds that despite Section 342G-45, an incentive will be necessary to ensure compliance of all individual state workers. Knowing that their agency will keep and use the money from recycling provides a tangible incentive and will help ensure the success of such programs.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of S.B. No. 3317 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1699 Employment and Public Institutions on S.B. No. 3372

The purpose of this bill is to establish the position of Administrator of the Employee's Retirement System.

Current law provides for the System to be administered by a Secretary appointed by the Board of Directors. This bill eliminates the position of Secretary and provides that the Administrator shall be civil service exempt, appointed by a majority of the Board, at least two of which shall be elected members, and paid the same as a department head.

The ERS is a multi-billion dollar concern which for years has been managed by the Secretary despite the fact that the Hawaii Revised Statutes are silent as to the Secretary's purpose, civil service status, or remuneration. This bill clarifies

the management of the System, and gives the Board the prerogative to retain the current Secretary, who has been fulfilling the role of Administrator.

Your Committee finds that management of the ERS should be vested in an appointed exempt Administrator whose salary range is statutorily provided. The Board should also have the prerogative to retain the incumbent Secretary, who has been carrying out the functions of an administrator, and appoint him to that position.

Your Committee has amended this bill by deleting the requirement that two of the Board members making the appointment be elected, and by changing the salary range of the Administrator to that of a deputy director.

Further, your Committee has amended SECTION 2 of the bill to clarify that the ERS is currently managed by the Secretary.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of S.B. No. 3372, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3372, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1700 Employment and Public Institutions on S.B. No. 3373

The purpose of this bill is to allow public school teachers in the Contributory Plans (A or B) to retire after twenty-five years of service with full benefits, regardless of age.

Current law requires a public school teacher to be at least fifty-five or suffer a reduction in benefits, even if the teacher has put in twenty-five years of service.

Your Committee finds that several other occupations are accorded the full-benefit early retirement prerogative and that school teachers with twenty-five years of service merit full retirement benefits due to the strenuous nature of the work and the dedication required to put in twenty-five years; indeed, many are burned out before age fifty-five. These dedicated public servants should be afforded the opportunity to retire a little early without loss of any benefits.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of S.B. No. 3373 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1701 Employment and Public Institutions on S.B. No. 3377

The purpose of this bill is to establish a two year pilot program to develop visitor industry courses at three high schools located in districts where such programs and courses are currently unavailable.

The bill also appropriates \$49,000 to be expended in fiscal year 1992-1993 by the Department of Labor and Industrial Relations for this purpose.

Similar pilot programs funded by the Legislature have proven effective at Farrington and Waipahu High Schools. This bill will enable proliferation of these successful programs and courses where they are most needed.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of S.B. No. 3377 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1702 Employment and Public Institutions on S.B. No. 3378

The purpose of this bill is to provide University of Hawaii Football Coaches options in planning for retirement.

Under the noncontributory plan of the Employees' Retirement System, in order to be eligible for benefits, a member must put in ten or more years of service. However, most coaches are itinerant, seldom staying with one university for ten years. Thus, U.H. football coaches virtually never qualify for state retirement. This bill allows the University to contract on behalf of its football coaches with any national coaches retirement plan meeting certain requirements, and further allows the University to deduct premiums from the coach's salary, if withholding and payment are required.

Your Committee finds that it is appropriate to utilize alternate methods to help public employees provide for retirement. This bill is consistent with that policy.

Your Committee has made three nonsubstantive technical amendments to correct drafting errors.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of S.B. No. 3378, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3378, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1703 Housing and Hawaiian Programs on S.B. No. 3193

The purpose of the bill is to establish a five year moratorium on the purchase of residential real property by non-resident aliens and to establish a central registry in the Department of Commerce and Consumer Affairs which lists residential property holdings of non-residents aliens where the alien's interest is twenty per cent or more.

It is the intent of this bill to preserve residential real property for use and ownership by residents of the State of Hawaii.

Your Committee finds that although foreign investment in commercial real property is beneficial to Hawaii, ownership of residential real property by non-resident aliens is undesirable because it leads to speculation and raises the cost of housing for Hawaii residents. Residential real property is a limited resource which must be protected for Hawaii's people.

Your Committee has amended this bill to clarify the definition of residential real property to include residential apartments and residential condominiums and to clarify the definition of alien to include corporations.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of S.B. No. 3193, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3193, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Nakasato.

SCRep. 1704 Culture, Arts and Historic Preservation on S.B. No. 2661

The purpose of this bill is to establish in the State Foundation for Culture and the Arts an assistant director position exempt from Chapter 76 and 77, Hawaii Revised Statutes.

It is the intent of this bill to enable the State Foundation for Culture and the Arts to fulfill its goals by establishing an assistant director to aid the executive director in coordinating and implementing the agency's operations and activities.

Your Committee on Culture, Arts and Historic Preservation is in accord with the intent and purpose of S.B. No. 2661 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1705 Culture, Arts and Historic Preservation on S.B. No. 2662

The purpose of this bill is to authorize the State Foundation on Culture and the Arts (SFCA) to use public funds to award grants to individuals and organizations to provide services which promote and preserve the arts, culture, history and humanities in Hawaii.

Currently, the SFCA is unable to solicit services from individuals.

It is the intent of this bill to allow the SFCA to fund individuals and organizations on an expedited and more direct basis. This would allow the grantees, many of which are operated by volunteers, to take advantage of opportunities to benefit Hawaii's residents and to become more responsive to the needs of Hawaii's people.

Your Committee has amended this bill to make technical changes which do not affect the substance of the bill.

Your Committee on Culture, Arts and Historic Preservation is in accord with the intent and purpose of S.B. No. 2662, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2662, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1706 Culture, Arts and Historic Preservation on S.B. No. 3217

The purpose of this bill is to appropriate funds to the State of Hawaii endowment fund to be used for the operation of the Honolulu Symphony.

It is the intent of this bill to provide funds to be matched by an equal amount of private donations to assist the Honolulu Symphony in meeting its goal of becoming self-sufficient. This funding also will allow the symphony to continue its programs such as its educational program for Hawaii's school children and its public concert in the parks.

Your Committee has adopted the recommendations of Tony Dechario, executive director of the Honolulu Symphony, and has made technical amendments to the bill to be consistent with past legislation and to clarify the State's practice in previous grant to the symphony. The amendments do not change the substance of the bill.

Your Committee on Culture, Arts and Historic Preservation is in accord with the intent and purpose of S.B. No. 3217, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3217, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1707 Culture, Arts and Historic Preservation on S.B. No. 3389

The purpose of this bill is to provide funds to the Bishop Museum for the creation of a position for a part-time liaison resource teacher in Hawaiian ethnobotany, archaeology, and natural history at the Amy B. H. Greenwell Ethnobotanical Garden in Kona, Hawaii.

It is the intent of this bill to enrich the existing school curricula in science education and Hawaiian studies by providing a resource teacher at the Garden.

Your Committee finds that the Garden's collection of traditional Hawaiian crop plants and the opportunity to work with Dr. Brien A. Meilleur, a leading ethnobotany expert at the Garden, will enrich the educational programs of Hawaii's schools.

Your Committee on Culture, Arts and Historic Preservation is in accord with the intent and purpose of S.B. No. 3389 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1708 Culture, Arts and Historic Preservation on S.B. No. 3400

The purpose of this bill is to appropriate \$50,000 for the public libraries to continue moving image preservation activities.

It is the intent of this bill to protect, preserve and make accessible film and video material forms of historical records.

Your Committee finds that moving images are important forms of historical records which must be preserved for future generations.

Your Committee on Culture, Arts and Historic Preservation is in accord with the intent and purpose of S.B. No. 3400 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1709 Culture, Arts and Historic Preservation on S.B. No. 3435

The purpose of this bill is to provide funds for the Asia Conference for Promoting Asian Cinema which will be hosted by the Hawaii International Film Festival in December, 1983.

Your Committee finds that hosting the Asia conference will enable prominent members of the Asian and international film industry to learn about the possibilities of film making in Hawaii and will enable local film makers to learn about the Asian film market. Additionally, your Committee finds that the Asia conference will provide cultural and educational opportunities for Hawaii's residents, which includes a large population of Asian ancestry.

Your Committee on Culture, Arts and Historic Preservation is in accord with the intent and purpose of S.B. No. 3435 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1710 Culture, Arts and Historic Preservation on S.B. No. 3445

The purpose of this bill is to provide funds for the Office of Hawaiian Affairs to develop and implement a cultural management plan for Kualoa Regional Park.

It is the intent of this bill to facilitate the preservation of the cultural resources of Kualoa Regional Park.

Your Committee finds that the ahupua'a of Kualoa is a rich cultural and historical site which is listed on the National Register of Historic Places. The development and implementation of a cultural resources management plan by the Office of Hawaiian Affairs will enable not only native Hawaiians, but also the general population of Hawaii, to better understand and appreciate Hawaiian culture and tradition.

Your Committee on Culture, Arts and Historic Preservation is in accord with the intent and purpose of S.B. No. 3445 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1711 Health and Human Services on S.B. No. 2761

The purpose of this bill is to appropriate funds for substance abuse treatment programs.

Your Committee finds that substance abuse has a devastating effect on our citizens and society. Treatment programs and facilities are one important aspect in addressing the problem.

Your Committee has amended the bill by adding \$300,000 for residential treatment services for mothers with children, increasing funds for Drug Addition Services of Hawaii's methadone treatment and detoxification services from \$300,000 to \$493,946, adding \$300,000 for community-based substance abuse treatment services in West Hawaii, and decreasing funds for the administration and implementation of Oxford House Inc.'s group recovering homes for recovering substance abusers from \$65,000 to \$10,000.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 2761, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2761, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Mizuguchi.

SCRep. 1712 Health and Human Services on S.B. No. 2762

The purpose of this bill is to provide funds to the Department of Health to expand the Baby S.A.F.E. (substance abuse free environment) Hawaii program and to provide for a statewide program to train staff to provide treatment services to pregnant women who are substance abusers.

It is the intent of this bill to provide treatment services to pregnant women on the neighbor islands who use substances. Treatment services are virtually non-existent on the neighbor islands.

Your Committee finds that funding should be made in the area of prevention and early intervention in maternal and child health, if additional funding is available beyond the administration's budget.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 2762 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Mizuguchi.

SCRep. 1713 Health and Human Services on S.B. No. 2887

The purpose of this bill is to clarify the methodology in calculating the amount of a financial assistance grant to an eligible household.

Your Committee finds that this administration bill is necessary to bring the State's standard of assistance in line with the federal poverty level by converting the annual federal poverty level to the monthly amount to determine the need standard. This bill clarifies this process by yielding a dollar and cents figures rounded down in accordance with federal law.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 2887 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Mizuguchi.

SCRep. 1714 Health and Human Services on S.B. No. 3418

The purpose of this bill is to provide a comprehensive approach towards prevention and reduction of head injuries.

Specifically, this bill makes it unlawful to ride on a motorcycle, motor scooter, or moped, either as an operator or passenger, without wearing a safety helmet meeting specifications adopted by the Director of Health.

The bill also establishes the Head Injury Advisory Committee to advise the Department of Health on all matters relating to head injuries and annually report to the Legislature on efforts taken and progress made in responding to the medical needs of persons with head injuries and in promoting head injury prevention. Further, the bill provides for a workshop wherein public and private experts will review issues relating to head injuries and plan for implementation of the Advisory Committee.

Traumatic head injury is a major cause of death or disability in Hawaii, much of which is attributable to the non-use of helmets by motorcycle, motor scooter, and moped riders since the repeal of the old helmet law in 1977. That repeal, as shown by committee reports contained in the 1977 Senate Journal, was based primarily on the findings that: (1) laws requiring safety helmets had not affected the fatality rate nationwide; and (2) there was evidence that safety helmets, although shown to have reduced severe injuries to the head and face, actually increased the risk of fatal neck injuries. Whatever the accuracy of these findings in 1977, it is exceedingly clear today that the evidence is overwhelmingly to the contrary.

Among the substantial testimony received, your Committee has reviewed a 1991 report prepared for the United States Senate Subcommittee on Water Resources, Transportation and Infrastructure by the United States General Accounting Office (GAO) that specifically refutes both of the findings made in 1977. The GAO report indicates that fatalities are as much as seventy-three percent lower for helmeted riders than they are for unhelmeted ones nationwide, the rate of severe or worse head injuries is up to eighty-five percent lower among helmeted riders, and there is no methodologically acceptable data anywhere that supports the view that helmets increase the likelihood of severe neck injuries.

Indeed, it is the finding of your Committee that existing data is so convincing that no reasonable person can honestly maintain that helmets do not save lives and reduce traumatic head injury. Additionally, your Committee has reviewed voluminous testimony unquestionably substantiating both the efficacy and cost-effectiveness of helmet laws.

Your Committee categorically rejects the notion that individuals who refuse to wear helmets can only harm themselves; clearly, harm that comes to them from that refusal also reaches deeply into society in the form of lost public revenues, and health, rehabilitation, burial and other expenses that must be borne by the general public. Given also that helmet laws have long been held constitutional by the courts, we can find no legal, logical, sensible, realistic, or substantive reason for failing to reinstate the helmet law in this State.

Therefore, your Committee strongly favors this measure, and to strengthen it, has added automatic fines of \$25, \$50, and \$100 for first, second, and subsequent violations of the helmet requirement.

Your Committee has also amended this bill by limiting the helmet provision to riding motorcycles, motor scooters, or mopeds on public highways; by clarifying the functions of the Advisory Committee; and by making some nonsubstantive technical changes for the purposes of style and conformance with recommended drafting technique.

Finally, your Committee wishes to emphasize that unless the Legislature passes a helmet law, the State is likely to lose substantial federal moneys, or see such funds redirected to other programs which may conflict with State priorities.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 3418, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3418, S.D. 1, and be referred to the Committees on Ways and Means and Transportation.

Signed by all members of the Committee except Senator Mizuguchi.

SCRep. 1715 Health and Human Services on S.B. No. 3303

The purpose of this bill is to provide an income tax credit of 50 percent for child care expenses for employees for the care of a child under 14 years old.

It is the intent of this bill to provide tax relief for child care expenses to encourage people to go to work and to remain at work instead of having to stay home to take care of their children because of the high cost of child care.

Your Committee finds that the State's labor shortage necessitates that as many workers be in the work force as possible without having unfortunate barriers erected such as child care problems.

Your Committee has amended this bill to add that the credit is only available to the taxpayer "while employed" to clarify that this credit is intended for employees and not to the general public, which is the intent of this bill.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 3303, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3303, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Mizuguchi.

SCRep. 1716 Employment and Public Institutions on S.B. No. 2660

The purpose of this bill is to change the requirements for expenditures of public money provided in Section 103-22, Hawaii Revised Statutes.

Present law requires public advertisement for sealed tenders and contracts for expenditures of \$8,000 or more, with certain exceptions. Expenditures greater than \$4,000 but less than \$8,000 are subject to advertised calls for informal bids but do not require a contract. In the case of public projects involving buildings, roads, or site improvements, the informal bidding requirement, sans contract, pertains to expenditures greater than \$4,000 but less than \$15,000.

This bill requires sealed tenders and contracts for expenditures of \$15,000 or more, retaining the same exceptions currently provided for the \$8,000 minimum, but adds an exception for replacement of medical diagnostic and therapeutic equipment for community hospitals under the Department of Health. The range for informal, non-contract expenditures is changed to more than \$8,000 but less than \$15,000, (less than \$25,000 for the public projects), and a new informal bidding provision for expenditures of less than \$15,000 for repair of public heavy equipment, automotive equipment, sewage treatment plants, or utility lines, or for emergency roadwork, is added.

Additionally, the bill provides that bid specifications for purchase of medical diagnostic or therapeutic equipment for community hospitals need not be adjusted by the Department of Health in order to qualify more than one vendor, and exempts the Department from the obligation to accept a low bid that is inconsistent with community hospital needs. The Departments of Accounting and General Services and Health are each required to submit reports to the 1993 Legislature analyzing these provisions and quantifying time saved and the effect on acquisition costs. Information relating to private and public hospitals in other jurisdictions may be included in either report. Provisions relating to purchase of medical or therapeutic equipment will be repealed on June 30, 1993.

Your Committee finds that current bidding and expenditure provisions of Section 103-22 are antiquated and adversely affect Hawaii's business climate in that the time and effort necessary to compete for small jobs inhibits, and in effect eliminates, many businesses from the bidding pool. This lack of competition in the private sector could adversely affect the quality of many public projects. Your Committee finds that this bill will facilitate and increase the quality of public projects and improve medical services throughout the State.

Upon further consideration, your Committee finds that the expenditure threshold for informal bids should be even higher in order to achieve the public purpose underlying this measure. Therefore, your Committee has amended this bill as follows:

- (1) Raised the sealed contract/public tender minimum to \$35,000;
- (2) Provided for informal bidding where the expenditure is more than \$15,000 but less than \$35,000, including expenditures for public works projects;
- (3) Provided that all bids of \$15,000 or more shall require a performance bond;

- (4) Applied the advertising and bidding exemptions to expenditures of less than \$35,000 for public equipment and facility repairs and emergency roadwork;
- (5) Required the Department of Accounting and General Services and Department of Health reports to include surveys of other jurisdictions; and
- (6) Made several nonsubstantive technical changes for the purposes of clarification and style.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of S.B. No. 2660, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2660, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1717 Employment and Public Institutions on S.B. No. 2934

The purpose of this bill is to enable all employees of the Department of Health to participate in job sharing.

The bill also relieves the Office of the Auditor of the obligation to report every year on job-sharing.

Your Committee finds that Act 244, Session Laws of Hawaii 1989, inadvertently excluded nurses in the Department of Health from participating in job-sharing, whereas the intent was to provide job-sharing across the spectrum of public employment. This bill corrects the oversight in Act 244, and also reflects your Committee's opinion that job-sharing has been studied enough. A final report to the 1994 Legislature should be more than sufficient to determine that job-sharing serves the interests of all concerned.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of S.B. No. 2934 and recommends that it pass Second Reading and be referred to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 1718 Education on S.B. No. 2125

The purpose of this bill is to provide general fund appropriations for the administration of summer school programs at the University of Hawaii.

Your Committee finds that there is an urgent need to address the educationally and economically disadvantaged who are overly represented within certain ethnic groups. Your Committee further finds that the Hawaii Opportunity Program in Education (HOPE) project was established in 1990 to provide scholarships for qualified members of these ethnic groups.

Your Committee, therefore, has amended this bill by deleting its substance and replacing it as follows:

Section 1. Recognizes the urgent need to assist the educationally and economically disadvantaged in our State through the establishment of the Hawaii Opportunity Program in Education (HOPE) project.

Section 2. Amends section 304-8, Hawaii Revised Statutes, to mandate the deposit of tuition in the amount of \$1,000,000 from fiscal years 1990-1991 and 1991-1992 and \$2,000,000 from fiscal years 1992-1993 through 1999-2000 to the credit of the Hawaii opportunity in education special fund.

Section 3. Provides an effective date on July 1, 1992.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2125, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2125, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1719 Education on S.B. No. 2253

The purpose of this bill is to make an appropriation to create a steering committee to study and make recommendations regarding the implementation of a year-round multi-track school model for West Hawaii County.

Your Committee finds that the extraordinary population growth in West Hawaii has adversely impacted its public schools due to the lack of facilities and teaching staff. Testimony submitted by the Department of Education indicates that the year-round multi-track school would assist in alleviating these problems and would improve student achievement by optimal use of remedial and enrichment activities throughout the year.

Your Committee has amended this bill by:

- (1) Deleting the requirement that two schools be identified as pilots; and
- (2) Making technical changes which do not affect its substance.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2253, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2253, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1720 Education on S.B. No. 2261

The purpose of this bill is to allow the Department of Education to expend monies from two special funds in excess of the amounts appropriated, with the approval of the Governor or the Director of Finance.

Your Committee finds that the public schools are allowed to charge rental fees for the use of school facilities and collect reimbursements for damaged or lost books, equipment and supplies. These fees are deposited to the credit of the school facilities special fund and the school special fees special fund. Your Committee further finds that at present the schools cannot expend these funds because the funds were not appropriated in the 1991-92 fiscal year.

Your Committee has amended this by:

- (1) Clarifying the correct name of the school special fees special fund; and
- (2) Changing the effective date to upon approval.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2261, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2261, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1721 Education on S.B. No. 2473

The purpose of this bill is to make an appropriation of \$102,200 to the Department of Education for the Keiki No Ka Oi pilot project.

Your Committee finds that drug exposed children are among the most vulnerable in our State. Your Committee further finds that this pilot project is a first response to the problem of drug exposed children. Since there is currently no plan to address the problem, the pilot project should provide the necessary data and experience to develop a statewide response.

Testimony submitted by the Office of Children and Youth indicates that a high quality preschool experience can make a meaningful difference in the development of these children and they will be less likely to become delinquent or drop out of school. The Department of Education testified that this pilot project will provide direct services to children at Maui Elementary School and identify strategies which can be used to develop a systemwide response to this critical problem facing the public schools.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2473 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1722 Education on S.B. No. 2588

The purpose of this bill is to appropriate funds for the nine public schools in the State which did not receive funding through the federal Carl D. Perkins Vocational and Applied Technology Education Act.

Your Committee received testimony in support of the bill from the principal of Pearl City High School and testimony in opposition from the Department of Education. The department's opposition appears to be grounded in the belief that state funding of vocational education programs is adequate and should not vary according to the availability or nonavailability of supplemental federal funds.

Your Committee finds that due to federal budgetary cutbacks, only thirty of the State's thirty-nine schools with vocational education programs will receive supplementary funding through the Carl D. Perkins Act. However, your Committee strongly believes that all state schools with vocational education programs should be funded on a comparable per capita basis, regardless of federal priorities.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2588 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1723 Education on S.B. No. 2750

The purpose of this bill is to extend the effective date of Section 3 of Act 234, Session Laws of Hawaii 1986, which provides tuition waivers to students in the University of Hawaii system who agree to pursue an academic curriculum which would qualify them to teach in the State's public school system.

Your Committee finds that the Department of Education is still experiencing a severe teacher shortage, much as it did when Act 234 was originally enacted, and its current projections indicate that it will need to hire between 900 and 1000 teachers annually for the next decade.

Consequently, your Committee finds that extending the effective date of Act 234 from June 30, 1992 to June 30, 1999, should help alleviate the shortage of teachers by encouraging future college students to pursue careers in education.

Your Committee received testimony in support of the bill from the Department of Education and the University of Hawaii.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2750 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1724 Education on S.B. No. 2752

The purpose of this bill is to allow the board of regents to determine through its rules amounts which may be spent in support of certain student activities.

Your Committee finds that student activity budgets for certain groups are quite small because the student activity fees which support them are lower. Your Committee further finds that the imposed statutory ceiling on expenditures makes it difficult for these groups to fully participate in traditional events such as orientation and graduation.

Your Committee has amended this bill to delete any reference to a fixed percentage and provides discretionary authority to the board of regents to set expenditure limits through its rules.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2752, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2752, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1725 Education on S.B. No. 2965

The purpose of this bill is to create a Class VIII category for certified Department of Education teachers who have earned a doctorate and teach in their major or a related field. The teacher would have to serve one year in Class VII before rising to Class VIII.

The bill also appropriates \$100,000 for fiscal year 1992-1993 to carry out the purposes of the bill.

Act 296, Session Laws of Hawaii 1990, changed the Class VII category, previously the highest Classification applicable solely to teachers with doctorates, to include certified teachers who have earned at least sixty-six additional college credits. Thus, teachers with many extra credits, who previously could rise no higher than Class VI, became eligible for promotion, and others were provided with an incentive to continue pursuing their education. However, Act 296 also eliminated the distinction between teachers with many extra credits and those who have chosen to expend the substantial extra effort required to obtain a doctorate.

This bill recognizes and rewards the efforts of individuals who not only choose teaching as a career but are themselves possessed of the highest symbol of educational excellence, the doctorate.

Your Committee finds that a person who decides to invest the time and effort necessary to earn a doctorate and chooses teaching as a career is clearly dedicated and committed to education. The process is arduous and consists of rigid requirements and time limits that are not applicable to acquisition of extra credits in a non-degree granting context. Thus, teachers with doctorates should be afforded special recognition in terms of classification and pay.

Act 296 provided an incentive for teachers to earn more college credits, but it obviated the previous policy of rewarding teachers who had obtained doctorates. Your Committee believes that the previous policy was appropriate and should be reinstated.

Your Committee notes that the Superintendent of Education and the HSTA both support this measure, and that it will presently affect less than thirty individuals.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2965 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1726 Education on S.B. No. 2971

The purpose of this bill is to require the Department of Education to establish motor vehicle driver education and traffic safety education programs in all public high schools.

Your Committee finds that driver education programs can help to deter accidents on our highways and a mandated driver education program would ensure that our students are properly trained. Your Committee further finds that there is a shortage of certified driver education teachers, especially in rural areas, therefore it would be difficult for the Department of Education to implement this program statewide.

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

- (1) Allowing driver education to remain as a discretionary program offered by the public schools;
- (2) Expanding the times when schools may offer driver education to include weekends, holidays, or during any school recess; and
- (3) Creating a new statute for the traffic safety education program.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2971, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2971, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1727 Education on S.B. No. 3004

The purpose of this bill is to appropriate \$50,000 for fiscal year 1992-1993 to remove hazardous materials from all public schools in the State.

Your Committee finds that the removal of all hazardous materials from public schools in the State is in the public interest and that such removal should be done as soon as feasibly possible.

Your Committee received supporting testimony from the Department of Education which also suggested that the bill be amended to allow the Department of Education to be the expending agency rather than the Department of Accounting and General Services.

Accordingly, your Committee has made the amendment to facilitate a more expedient removal of hazardous materials from the public schools in the State.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 3004, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3004, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1728 Education on S.B. No. 3007

The purpose of this bill is to make an appropriation to the Department of Education to review and revise state specifications for the construction, repair, and maintenance of public school facilities.

Your Committee finds that government procedures which guide the construction, repair, and maintenance of school facilities need to be reviewed and revised, especially in light of the overwhelming backlog of projects. Your Committee further finds that government procedures need to be streamlined so that the completion of these projects is conducted in the most effective and efficient manner possible.

Your Committee has amended this bill by:

- (1) Requesting an appropriation of \$10,000; and
- (2) Requiring the Department of Education to consult with private sector construction and design industry representatives appointed as an advisory body to the department.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 3007, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3007, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1729 Education on S.B. No. 3087

The purpose of this bill is to appropriate \$918,233 for fiscal year 1992-1993 for the Resources and Early Access to Learning project (Families for R.E.A.L.) within the Department of Education (DOE).

Your Committee received testimony in support of this bill from the DOE and the Governor's Office of Children and Youth.

Your Committee finds that the R.E.A.L. project acts as a catalyst between the various involved executive agencies which promotes the delivery of student services that the DOE is not able to provide on its own.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 3087 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1730 Education on S.B. No. 3021

The purpose of this bill is to appropriate \$2,600,000 for fiscal year 1992-1993 to increase the salaries of coaches and athletic directors of the public schools in the State.

Your Committee received supporting testimony from the Department of Education (DOE), the Oahu Interscholastic Association, and the Athletic Directors and Coaches Association of Hawaii.

Your Committee finds that a DOE task force reviewed the issue of salary rates for coaches and athletic directors in 1989 and made recommendations on this matter. Since these recommendations were made, however, the coaches and athletic directors have not yet received the full amount recommended. Your Committee finds that the funds provided by this measure are necessary to adequately compensate our coaches and athletic directors.

Your Committee has amended the bill by inserting language providing the DOE with the authority to negotiate with the appropriate collective bargaining representative of the coaches' and athletic directors' to work out the distribution of the moneys appropriated. Other technical amendments have been made for the purposes of clarity and style.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 3021, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3021, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1731 Education on S.B. No. 3024

The purpose of this bill is to make an appropriation to establish a maximum class size of no more than thirty students per class in grades three through twelve.

Your Committee finds that currently many classrooms are overcrowded with more than thirty students and this situation detracts from the learning environment. Testimony submitted by the Department of Education indicates that the department is currently working to reduce class size below the thirty to one ratio proposed by this measure. Your Committee further finds that due to uneven enrollments, the department needs the flexibility to set student-teacher ratios as indicated by actual enrollments.

Your Committee, therefore, has amended this bill by:

(1) appropriating \$3,711,180 to provide an additional 165 teacher positions to reduce the student-teacher ratio for third grade to twenty students per class; and

(2) appropriating \$2,699,040 to provide an additional 120 teacher positions to reduce the student-teacher ratio in core subjects for grades seven through ten.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 3024, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3024, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1732 Education on S.B. No. 3120

The purpose of this bill is to provide an exemption for students of the former Soviet Union from the nonresident tuition differential at the University of Hawaii.

Your Committee finds that it is in the interest of Hawaii to cultivate students from what was recently known as the Union of Soviet Socialist Republics and now known as the Commonwealth of Independent States to enroll at the University of Hawaii. This is in keeping with the political and economic evolution of globalization for which Hawaii should be at center stage.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 3120 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1733 Education on S.B. No. 3322

The purpose of this bill is to appropriate \$2,400,000 for fiscal year 1992-1993 for the special needs of the students of the Farrington complex.

Your Committee finds that the special needs schools program was funded by the legislature at \$70 per student for only the first year of the fiscal biennium. This measure would provide funding for the program at a level of \$200 per student for the 1992-1993 fiscal year.

Your Committee further finds that the special needs school program recognizes the individual problems that certain schools face and tries to allocate funding above and beyond the schools' regular per pupil allocation to address the additional learning needs of the students in these schools.

Your Committee received testimony in support of the bill from the Department of Education.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 3322 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1734 Education on S.B. No. 3335

The purpose of this bill is to appropriate funds for the University of Hawaii to purchase the privately-owned portion of Coconut Island.

Your Committee finds that the University of Hawaii already operates a marine laboratory on the state-owned portion of the island. However, the full potential of the laboratory as a world class center for education and research has been curtailed because the whole island needs to be utilized for that purpose. The Hawaii Institute for Marine Biology needs room to expand its facilities to meet new responsibilities in scientific research in water quality and environmental education.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 3335 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1735 Education on S.B. No. 3424

The purpose of this bill is make an appropriation to the Department of Education to establish a special recruitment team to fill teaching positions in rural or remote areas of the State.

Your Committee finds that the recruitment and retention of teachers serving in rural or remote areas requires additional efforts on behalf of the Department. Your Committee further finds that the Department needs additional resources to continue its efforts which include recruiting on the mainland, specialized orientation and training programs, and mentorships for beginning teachers.

Your Committee has amended this bill for clarity and conciseness.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 3424, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3424, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1736 Education on S.B. No. 3440

The purpose of this bill is to make an appropriation of \$287,000 to the Department of Education for swimming and water safety instruction for elementary school students.

Your Committee finds that drowning is the second leading cause of unintentional death in Hawaii, and approximately one-half of all ocean drownings are Hawaii residents. A study conducted by the City and County of Honolulu's Department of Parks and Recreation found that 70 percent of children ages 7 to 14 could not swim 50 yards. Testimony submitted by the Department of Education indicates that swimming instruction is not available at the elementary schools due to lack of qualified instructors and proper facilities. Hawaii's Learn to Swim Coalition testified that adequate facilities and instructors currently are available within the community to implement an on-going statewide program. However, additional funds are needed for transportation and instruction.

Your Committee wants to acknowledge the importance of providing water safety instruction in our public schools, which could be offered as a supplemental or summer session activity. Your Committee further wants to encourage public/private sector partnerships through educational endeavors such as the water safety and Learn-to-Swim programs.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 3440 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1737 Education on S.B. No. 2706

The purpose of this bill is to repeal section 297-12, Hawaii Revised Statutes, which provides procedures for demotion or termination of teachers.

Your Committee finds that all certified department of education personnel who may have been demoted or terminated currently have recourse to request a review of the action through either the collective bargaining agreement grievance procedures or the department's employee grievance procedure adopted by rule. Your Committee further acknowledges that the collective bargaining agreements supercede any specific statutory authority and, therefore, section 297-12 is not necessary.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2706 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1738 Education on S.B. No. 3396

The purpose of this bill is to require the Department of Education to submit a monthly certification compliance report on personnel in collective bargaining unit 5.

Your Committee finds that a shortage of certified teachers still exists in certain subject areas and a regular report by the department would assist in identifying these areas. Your Committee further finds that collecting data on these shortages is a first step as we move toward restructuring our school system and making our schools more responsive to their communities.

Your Committee has amended this bill by:

- (1) Requiring semi-annual reports rather than monthly reports; and
- (2) Deleting the requirement that the department detail its efforts in filling positions with certified personnel.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 3396, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3396, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1739 Judiciary on S.B. No. 1626

The purpose of this bill is to include, in the offense of second-degree murder, the causing of the death of another while engaged in the commission of any of the following felonies: criminal property damage in the first degree; sexual assault in the first, second or third degree; robbery in the first or second degree; burglary in the first or second degree; or kidnapping.

Under the current law, a person must intentionally or knowingly cause the death of another person in order to be convicted of second-degree murder. This bill will extend the law to convict an offender who causes the death of another during the commission of an inherently dangerous crime, even though the defendant did not intentionally or knowingly cause the death.

In support of the bill, the Honolulu Department of the Prosecuting Attorney testified that having such a felony-murder law on the books would permit the prosecution to bring a murder charge against individuals like Ricky Garringer, who was convicted of first-degree robbery for the 1989 robbery of the Waipio Jack-In-The-Box which resulted in the fatal shooting of a Jack-In-The-Box employee. The bill will also act as a stronger deterrent against those who commit crimes which pose a significant threat to human life.

The Public Defender, however, opposed the bill because it dispenses with the need to prove culpability or the requisite state of mind that would otherwise be required to support a conviction for murder. The Public Defender added that the felony-murder law does not serve a legitimate deterrent function since the actor has already disregarded the presumably sufficient penalties imposed for the underlying felony.

Giving due consideration to the testimony, your Committee:

- (1) Deleted from the listed felonies, first-degree criminal property damage, third-degree sexual assault, second-degree robbery, and second-degree burglary. This amendment narrows the application of the rule to those felonies that involve substantial control over others and a substantial risk of harm.
- (2) Limited the application of the felony-murder rule to those felonies involving the death of a person other than a participant. Thus, if the defendant accidentally killed an accomplice, the law would not apply.
- (3) Provided an affirmative defense to the felony-murder rule if it can be shown that the defendant was not the only participant in the underlying felony, was not armed with a dangerous weapon, reasonably believed that no other participant was armed with such an instrument, reasonably believed that no other participant intended to engage in conduct likely to result in death or serious bodily injury, and did not commit the act which resulted in the death or solicit, request, command, cause or aid another in committing that act which resulted in the death.

Your Committee finds that these amendments sufficiently narrow the application of the felony-murder law to the most serious offenses, particularly those that involve a high risk of serious bodily injury or death. Your Committee believes that those who commit or participate in acts that can easily and foreseeably result in the death or serious injury of another, such as those who commit crimes while armed with a dangerous weapon regardless of their intention to use that weapon, should be held fully accountable for any resulting death.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1626, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1626, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1740 Judiciary on S.B. No. 2204

The purpose of this bill is to amend Section 574-5, Hawaii Revised Statutes, to authorize the family court to waive notice to the non-custodial, non-initiating parent with respect to a name change of a minor when the court finds that the waiver is necessary for the protection of the minor.

Currently, section 574-5(a)(2)(C) authorizes the Family Court to order the name change of a minor, without the consent of an absent parent, only if it is in the best interest of the child and there is proof that all reasonable efforts have been made to locate that parent. When the "parental location" provision was added to the law in 1986, its purpose was to address circumstances where the non-custodial parent has disappeared and cannot be located; it did not address nor does the legislative history suggest that it was intended to address circumstances where a name change is sought to prevent an abusive non-custodial parent from learning the whereabouts of the minor to assure minor's safety. See CONF. COM. REP. NO. 18, 13th Haw. Leg., Reg. Sess., 1986 SENATE J. 729; S. STAND. COM. REP. NO. 810, 13th Haw. Leg., Reg. Sess., 1986 SENATE J. 1164; H.R. STAND. COM. REP. NO. 387, 13th Haw. Leg., Reg. Sess., 1985 HOUSE J. 1163. This bill will address that "gap" in the law by giving the court the discretion to dispense with notice if the circumstances indicate that notice would pose a threat of harm to the child.

An attorney and a private individual testified in support of the bill, citing examples of cases that would benefit from the passage of the bill. The attorney cited a case involving a child whose parents were divorced and whose father was barred from visitation rights because he had committed prior acts of abuse, violence and incest and posed a threat to the child.

The second proponent cited a case involving a child whose mother had divorced the father after having been abused throughout the marriage. The child had no recollection of the father and did not wish to use her father's name.

According to the proponents, the mother and child in both cases sought a name change for the minor but feared that contact with the father, as required under the current law, would have harmful consequences.

Your Committee finds that, in most cases, the court should require that notice be given or that all reasonable efforts to contact a parent be made before granting a name change. However, your Committee also recognizes that there will be exceptional cases in which a real threat of harm to the child exists; in those instances, the family court is in the best position to determine whether the granting of a name change without the consent of the absent parent would be in the best interest of the child. Your Committee, therefore, finds that the bill is necessary to insure that the family court has the flexibility to waive notice in those types of cases.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2204 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1741 Judiciary on S.B. No. 1166

The purpose of this bill is to clarify what constitutes a "formal charge" against an agency employee under the Uniform Information Practices Act (Modified), when such charges should be disclosed and what information should be disclosed to the public.

This bill is the companion to H.B. No. 1019, C.D. 1, which was enacted last year as Act 167. Your Committee amended this bill to conform it to the Senate's position (H.B. 1019, S.D. 2) regarding the disclosure of information on public agency personnel accused of misconduct.

Under the amendments made by this bill, a definition of the term "formal charge" is added to section 92F-3, Hawaii Revised Statutes. Under this definition, a formal charge is any written complaint alleging employment related misconduct by an agency employee, which is filed in accordance with a written agency disciplinary procedure that affords minimum due process. By providing that only those complaints that are in writing, and filed under a formal disciplinary policy constitute "formal charges," it is believed that only serious misconduct, rather than frivolous, "whispering," or oral complaints, will fall within the definition proposed by this bill.

It is the intent of your Committee that following the filing of a "formal charge" with an agency, the agency must, upon request of any person, disclose at least the following non-individually identifiable information concerning the charge: the fact that a formal charge has been filed, the substance of the charge, and the current status of the complaint (for example "under investigation"). Thus, until an initial determination regarding the merits of a formal charge against an agency employee, the identity of the charged employee and the charging party may be withheld by the agency.

Under the amendments proposed by your Committee to section 92F-14(b)(4), Hawaii Revised Statutes, following an agency's preliminary, recommended, or actual determination of a formal charge, the agency must then disclose the following information: the name of the agency employee against whom the charge was lodged; the agency's preliminary, recommended, or actual disposition of the charge (i.e., "insufficient evidence," "sustained," "dismissed"); the employee's response to the formal charge; the agency's findings of fact and conclusions of law, if any; and the disciplinary action recommended by the agency and any disciplinary action subsequently imposed by the agency. Underlying investigatory records will be subject to the balancing test set forth in 92F-14(a), after the identity of the charged employee is disclosed.

Your Committee finds that the amendments proposed by this bill appropriately balance an agency employee's constitutional right to privacy against the public interest in disclosure of information concerning misconduct by public employees. Specifically, your Committee believes that after a preliminary, recommended, or actual determination regarding a formal charge against an agency employee, there is a compelling state interest in the disclosure of the identity of the employee, information concerning the charge, and the agency's preliminary, recommended, or actual disposition of the charge, including whether the charge was dismissed or sustained. Requiring the public availability of the information set forth by your Committee's amendments will further the core purpose of the Uniform Information Practices Act (Modified) of conducting government business as openly as possible and promoting the accountability of agencies and

agency employees while at the same time safeguarding the individual's constitutional right to privacy under Article I, Sections 6 and 7 of the Constitution of the State of Hawaii.

Your Committee wishes to emphasize that the proposed amendments apply only to complaints that fall within the definition of "formal charges." Where an agency lacks a written or formalized disciplinary procedure, whether or not allegations of misconduct will be subject to disclosure depends on the outcome of the public interest balancing test set forth in section 92F-14(a). The employee may have a significant privacy interest under 92F-14, but such information is not per se confidential. Thus, even though the agency lacks a formal charge procedure or where the charge is not a formal one, serious misconduct allegations may, nevertheless, be subject to disclosure if the public interest in disclosure outweighs the privacy interests of the individual.

Your Committee urges all government agencies as a matter of sound administrative practice to adopt written disciplinary policies and procedures for processing formal charges. Agencies should not attempt to avoid the mandate of the Uniform Information Practices Act (Modified) by failing to reduce such policies and procedures to writing.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1166, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1166, S.D. 2.

Signed by all members of the Committee.

SCRep. 1742 Culture, Arts and Historic Preservation on S.B. No. 2440

The purpose of this bill is to establish an executive committee to recognize and provide for the celebration of the ninetieth anniversary of the arrival of the first Korean people in Hawaii.

Your Committee received supporting testimony from the Hawaii Korean Chamber of Commerce, the Honolulu Chapter of the Japanese American Citizens League, and a number of Korean civic organizations.

Your Committee feels that the arrival of the first Korean people to Hawaii is a significant event in the history of an ethnic group which has contributed greatly to the cultural diversity of our State and certainly worthy of formal recognition.

Your Committee has amended the bill by making technical, nonsubstantive amendments for the purposes of clarity and style.

Your Committee on Culture, Arts and Historic Preservation is in accord with the intent and purpose of S.B. No. 2440, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2440, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1743 Culture, Arts and Historic Preservation on S.B. No. 2649

The purpose of this bill is to appropriate \$35,000 for fiscal year 1992-1993 for the training and salaries for interpretive guides for Hawaii's Plantation Village in Waipahu, Oahu.

Testimony in support of the bill was submitted by the State Foundation on Culture and the Arts, the executive director of the Waipahu Cultural Garden Park, and the Leeward Oahu district superintendent of the Department of Education.

Your Committee finds that the Waipahu Cultural Garden Park and its Hawaiian Plantation Village offer a unique educational experience to students from kindergarten through twelfth grade. By providing the Park with additional trained staff, the Park will be able to offer a more comprehensive educational experience to a greater number of students.

Your Committee on Culture, Arts and Historic Preservation is in accord with the intent and purpose of S.B. No. 2649 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1744 Culture, Arts and Historic Preservation on S.B. No. 3214

The purpose of this bill is to amend Section 314-10, Hawaii Revised Statutes, to allow the salary of the executive director of the Hawaii Public Broadcasting Authority to be established jointly by the Board of Public Broadcasting and the Director of Commerce and Consumer Affairs.

Your Committee received testimony in support of this measure from the Department of Commerce and Consumer Affairs.

Your Committee finds that, under existing law, the salary of the executive director is set by statute and any change in amount must await the passage of executive pay legislation. Allowing the Board of Public Broadcasting and the Director of Commerce and Consumer Affairs jointly to determine the salary of the executive director, while providing adequate safeguards, is a flexible means of ensuring that the director's salary is commensurate with those of similar positions within the executive branch.

Your Committee on Culture, Arts and Historic Preservation is in accord with the intent and purpose of S.B. No. 3214 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1745 Culture, Arts and Historic Preservation on S.B. No. 3218

The purpose of this bill is to appropriate \$300,000 for fiscal year 1992-1993 to plan and design the restoration of the Kakaako Pumping Station.

Your Committee received favorable testimony from the Department of Land and Natural Resources and the Historic Hawaii Foundation.

Your Committee finds that the Kakaako Pumping Station is listed in both the Hawaii and the National Registers of Historic Places and that this State-owned, architecturally significant turn-of-the-century building should be preserved and restored for its historical significance.

Your Committee on Culture, Arts and Historic Preservation is in accord with the intent and purpose of S.B. No. 3218 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1746 Culture, Arts and Historic Preservation on S.B. No. 2648

The purpose of this bill is to appropriate \$4,000,000 for fiscal year 1992-1993 for the construction of the Pearl City Cultural Center.

Your Committee received testimony in support of this bill from Leeward Community College, Honolulu Theatre for Youth, Pearl City Community Association, Manana Community Association, and officials of Pearl City High School and Highlands Intermediate School.

Your Committee finds that leeward and central school districts have a need for a performing arts center which also could be used for a variety of cultural and community events. This state-project will provide a facility which will serve the seventy-six schools in the Department of Education's leeward and central school districts. The Department of Health will also use the facility for drama programs for the developmentally disabled and other events.

Your Committee further finds that in the past the Leeward Community College has attempted to accommodate the leeward and central district schools and communities by providing a facility for performing arts. This has placed an overwhelming demand upon the Leeward Community College Theatre. Presently, this theatre is closed for asbestos removal, leaving the schools and communities in the area without an auditorium in which to perform.

Your Committee on Culture, Arts and Historic Preservation is in accord with the intent and purpose of S.B. No. 2648 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1747 Culture, Arts and Historic Preservation on S.B. No. 2980

The purpose of this bill is to appropriate funds for archaeological research in survey area 5 at Kualoa Regional Park, and for monitoring of existing artifacts and proper care of new artifacts found in the park.

It is the intent of this bill to provide for research which will allow the culturally correct reinterment of bones in the survey area 5 which was designated for the placement of a burial mound by the Burial Council. The bill also intends to allow research necessary to develop a cultural resources management plan for Kualoa Regional Park.

Your Committee finds that the ahupua'a of Kualoa is a rich cultural and historical site which is listed on the National Register of Historic Places. Previous archaeological research has provided a better understanding of Hawaiian culture. Further research is required to develop a comprehensive management plan to help preserve the cultural heritage of the region for the benefit of all the residents of Hawaii.

Your Committee has amended this bill to increase the amount appropriated to \$520,000 and to provide that \$20,000 shall be expended for the reinterment of sixty-five remains. Amendments to correct spelling errors were made which do not affect the purpose and intent of this bill.

Your Committee on Culture, Arts and Historic Preservation is in accord with the intent and purpose of S.B. No. 2980, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2980, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1748 Culture, Arts and Historic Preservation on S.B. No. 3121

The purpose of this bill is to provide funds for the establishment and operation of the Hawaiian genealogy project which was initiated pursuant to Act 56, Session Laws of Hawaii, 1990.

It is the intent of this bill to provide funds for the re-establishment of the Hawaii population database, training for genealogical service center staff, and automation of birth, death, and marriage certificates for native Hawaiians and Hawaiians.

Your Committee finds that native Hawaiians and Hawaiians often have a need to document their ancestry. Validation of ancestry is required to receive entitlements or to gain access to services. Your Committee finds that the establishment of the Hawaiian genealogy project will enable native Hawaiians and Hawaiians to more easily establish proof of their ancestry.

Your Committee has amended this bill to provide that the funds appropriated shall be expended by the Department of Health. Technical amendments were made for the purpose of clarity and style which do not affect the substance of the bill.

Your Committee on Culture, Arts and Historic Preservation is in accord with the intent and purpose of S.B. No. 3121, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3121, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1749 Culture, Arts and Historic Preservation on S.B. No. 3174

The purpose of this bill is to provide funds for the restoration of Waialua Courthouse, in Waialua, Oahu.

It is the intent of this bill to facilitate the timely restoration of the Waialua Courthouse since further delay will result in the deterioration of the building which would make repair unreasonable.

Your Committee finds that the Waialua Courthouse is listed in the Hawaii Register of Historic Places and that there is strong community support for the preservation of this building. The renovation of this historic and architecturally significant building will allow it to again serve the needs of the north shore community.

Your Committee on Culture, Arts and Historic Preservation is in accord with the intent and purpose of S.B. No. 3174 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1750 Culture, Arts and Historic Preservation on S.B. No. 3318

The purpose of this bill is to appropriate funds to establish a public science education center at the Bishop Museum.

Your Committee finds that a science education center will improve public awareness and understanding of Hawaii's role in today's world of science and technology. Recent science education exhibits at the Bishop Museum have attracted many Hawaii residents as well as visitors which demonstrates a need for permanent science educational center.

Your Committee on Culture, Arts and Historic Preservation is in accord with the intent and purpose of S.B. No. 3318 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1751 Culture, Arts and Historic Preservation on S.B. No. 3428

The purpose of this bill is to provide funds to the Bishop Museum to establish a science center program which will travel to all of the islands in the state.

Your Committee finds that a travelling science center program will improve public awareness and understanding of science and technology and the roles these fields play in Hawaii's future. Such a program will benefit both residents and visitors to Hawaii.

Your Committee on Culture, Arts and Historic Preservation is in accord with the intent and purpose of S.B. No. 3428 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1752 Employment and Public Institutions on S.B. No. 2894

The purpose of this bill is to protect the higher retirement allowances of corrections officers and narcotics enforcement investigators assigned to the Department of Public Safety and to increase the retirement allowance of public safety internal affairs investigators.

To be eligible for the higher rate of two and one-half percent of the average final compensation, a corrections officer or narcotics enforcement investigator must have worked in that capacity for the last five years preceding retirement. However, if a person is promoted to a managerial position, he loses eligibility for the higher amount because the last five years were not in the capacity for which the higher rate is provided.

This bill allows such employees to keep the higher rate, and includes public safety internal affairs investigators in the two and one-half percent category. It also provides that promoted public safety employees and internal affairs investigators shall be Class A members of the Employees' Retirement System, and that those who entered service in Class A and subsequently elected to join Class C shall arrange for additional deductions or lump sum payments to the Board of Trustees.

Your Committee finds that corrections officers and narcotics enforcement investigators should retain their higher rate even if subsequently promoted, but that public safety internal affairs investigators should not be granted the higher rate because their duties are inconsistent with the amount of personal risk upon which the higher rate is based. Therefore, your Committee has amended the bill by deleting its contents and inserting an amendment to Section 88-74, Hawaii Revised Statutes, providing that corrections officers and narcotics enforcement investigators shall retain the two and one-half percent rate for the period in which they worked in that capacity, and receive the lower rate of two percent for time served in managerial employment.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of S.B. No. 2894, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2894, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1753 Employment and Public Institutions on S.B. No. 2901

The purpose of this bill is to strengthen and streamline the decision-making procedures of the Criminal Injuries Compensation Commission.

Specifically, the bill:

- (1) Authorizes the Commission to assign directly to the Administrator cases in which records and documents are sufficient to appropriately decide eligibility and compensation and the applicant has waived his right to a hearing; provided that the Administrator's decisions shall be subject to the approval of the Chairperson of the Commission;
- (2) Provides that any member may sign an order if the Chairperson is unavailable; and
- (3) Requires that requests by aggrieved applicants for reconsideration of adverse decisions must be received by the Commission within thirty days after service of a certified copy of the order or decision.

Your Committee finds that the hearings requirement is unduly burdensome for some applicants and that many cases can be appropriately decided by the Administrator, provided that sufficient records and documents are available. Your Committee notes that there is precedent in other states for similar procedures. The other substantive provisions in this bill will expedite the business of the Commission without adversely affecting the rights of applicants under Chapter 351, Hawaii Revised Statutes.

Your Committee has amended this bill by providing that any decision rendered by the Administrator shall be subject to the review and approval of the Commission, not just the Chairperson. In addition, your Committee has made several nonsubstantive technical changes for the purposes of clarity and style.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of S.B. No. 2901, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2901, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1754 Employment and Public Institutions on S.B. No. 2932

The purpose of this bill is to increase the post retirement allowance of Employees' Retirement System retirees from two and one-half per cent to three and one-half per cent of the monthly pension, annuity, or retirement allowance.

Additionally, commencing July 1, 1995, the annual post retirement increase for persons age sixty or over will be the greater of three and one-half per cent or seventy per cent of the Honolulu CPI, not to exceed six per cent of the original pension, annuity, or retirement allowance.

Your Committee finds that public employee retirees are entitled to greater post-retirement increases, especially in light of the healthy condition of the Fund. However, your Committee prefers a different approach and has therefore deleted the substance of this bill and replaced it with the substance of S.B. No. 1070 from 1991 with a change in the year in which the provisions become effective from July 1, 1991 to July 1, 1995, with minor technical changes that have no substantive effect.

As amended, the post retirement allowance for retirees age sixty-five or older, if greater than the amount currently provided by law, shall be computed by first determining the percentage increase in the annual Honolulu CPI, as published by the U.S. Bureau of Labor Statistics, by dividing the annual average index for the year preceding the year in which the post retirement allowance first becomes payable by the annual average index for the next preceding year, and multiplying one-half of that percentage by the monthly pension, annuity, or retirement allowance as originally computed, up to a four per cent maximum increase.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of S.B. No. 2932, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2932, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1755 Employment and Public Institutions on S.B. No. 3304

The purpose of this bill is to encourage employers to establish child care programs for their employees' children by establishing a Qualified Employer-Provided Child Care Program income tax credit.

The credit would be fifty percent of the employer's expense in providing a qualified child care program, not to exceed an unspecified maximum. Employers whose credit exceeds their tax liability would receive refunds from the State.

Your Committee finds that employer-provided child care will significantly impact on the labor market by enabling some employees to remain on the job and others to enter the labor market. It would also benefit employers in terms of competition for the best employees. This bill will provide an incentive that will result in many employers establishing child care programs for their employees.

Your Committee has amended this bill by making nonsubstantive technical changes for the purposes of clarity and style.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of S.B. No. 3304, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3304, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1756 Employment and Public Institutions on S.B. No. 3370

The purpose of this bill is to increase options for receipt of benefits under the Employees' Retirement System on account of a member's death while in service.

Specifically, the bill enables the surviving spouse or dependent children of a deceased contributory member to receive an Option 2 or 3 monthly pension or a lump sum if the beneficiary designation is null and void or the member failed to name a beneficiary. Under current law, the only benefit payable is a lump sum comprised of the member's accumulated contributions and a percentage of the member's annual salary which is paid to the deceased member's estate and possibly subject to probate. This bill allows the surviving spouse to select Option 2 if the member was eligible to retire, Option 3 if the member had ten years of service, or the ability to avoid probate if a lump sum payment is chosen.

The bill also allows surviving spouses and dependent children to qualify for Health Fund benefits regardless of whether the deceased member was in the contributory or noncontributory plans. It also increases the death benefit for noncontributory members who die from work-related accidents from twenty to thirty percent of their average final compensation.

Finally, the bill allows a noncontributory retiree to change his or her option C beneficiary after retirement, thus achieving parity in both plans.

Your Committee finds that this bill is needed to ensure that in service death benefits are appropriately provided under the Employees' Retirement System.

Your Committee has amended this bill by making nonsubstantive technical changes for the purposes of clarity and style.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of S.B. No. 3370, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3370, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1757 Science, Technology and Economic Development on S.B. No. 2465

The purpose of this bill is to appropriate funds for the planning, design, and construction of a foreign trade zone warehouse in Hilo, Hawaii.

Your Committee finds that there is a need to expand and diversify the economic base of the county of Hawaii. Establishment of a foreign trade zone warehouse in Hilo would afford Big Island users the benefits of duty free processing and merchandise storage now enjoyed by users of the Honolulu zone. It would also provide employment opportunities to the surrounding community.

Your Committee on Science, Technology and Economic Development is in accord with the intent and purpose of S.B. No. 2465 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1758 Science, Technology and Economic Development on S.B. No. 2769

The purpose of this bill is to appropriate \$25,000 to the Neighborhood Reinvestment Corporation for community-based economic development projects on Molokai.

Your Committee finds that the Neighborhood Reinvestment Corporation (NRC) was established by Congress to revitalize declining neighborhoods for the benefit of current residents. Your Committee further finds that there is a need to stimulate and support small businesses on Molokai through the development of a marketplace for farming products and other goods. The NRC will assist in determining economic feasibility, assessing community support, and developing plans for this project.

Your Committee on Science, Technology and Economic Development is in accord with the intent and purpose of S.B. No. 2769 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1759 Science, Technology and Economic Development on S.B. No. 3403

The purpose of this bill is to appropriate funds to continue biomass research for energy and alternate uses.

Your Committee finds that Hawaii's subtropical environment has great potential for woody, biomass production. Biomass, as an alternative energy source, would help broaden Hawaii's economic base, as well as reduce the State's dependence on foreign oil.

Your Committee has amended the bill to change the expending agency from the governor's agriculture coordinating committee to the department of business, economic development, and tourism.

Your Committee on Science, Technology and Economic Development is in accord with the intent and purpose of S.B. No. 3403, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3403, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1760 Health and Human Services on S.B. No. 2888

The purpose of this bill is to provide the Department of Human Services with the authority to establish an imprest (advance payment) fund for work related expenses to assist Job Opportunities and Basic Skills (JOBS) participants with payment for extraordinary and emergency expenses that may arise.

Your Committee finds that this administration bill is necessary to help JOBS participants to meet immediate extraordinary expenses that cannot be paid for in a timely fashion through other payment methods. Examples are health care expenses not covered through Medicaid and purchase of tools or equipment that would facilitate entering training or accepting an employment position.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 2888 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Koki.

SCRep. 1761 Health and Human Services on S.B. No. 2947

The purpose of this bill is to establish a quality assurance committee to monitor the delivery of services to persons with developmental disabilities.

Your Committee finds that the State Planning Council on Developmental Disabilities received an appropriation in 1989 to study and provide recommendations for the establishment of a quality assurance project. Testimony submitted by the State Council indicates that the study revealed a lack of consistent philosophy among service providers regarding standards of care, and also concluded that monitoring activity is focussed on collecting data but not on follow-up to assure improvements in services provided. Your Committee received testimony in support of this measure by advocates and service providers alike who support statewide standards and monitoring.

Your Committee has amended this bill by:

- (1) Requiring the committee to receive and follow-up on complaints by consumers and taking such actions as may be warranted;
- (2) Adding a new section which amends existing statute to delineate the responsibilities of the State Council from that of the quality assurance committee; and
- (3) Requesting an appropriation of \$77,752 to carry out the purposes of this Act.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 2947, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2947, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Koki.

SCRep. 1762 Health and Human Services on S.B. No. 3117

The purpose of this bill is to establish a permanent child abuse prevention program known as "Healthy Start."

Your Committee finds that in 1984 the legislature funded a three-year demonstration project for the prevention of child abuse and neglect. Your Committee further finds that the demonstration project was a near perfect success, wherein participating families had a 99.8 percent rate of non-abuse and a 99.5 percent rate of non-neglect. Testimony indicating overwhelming support for this program was received from family service advocates as well as other community and business groups.

Your Committee has amended this bill by allowing that program services be provided through purchase of service agreements rather than by the Department of Health.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 3117, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3117, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Koki.

SCRep. 1763 Health and Human Services on S.B. No. 3298

The purpose of this bill is to provide for the establishment of private self-sufficiency trusts for persons with disabilities.

Your Committee finds that families with disabled dependents have difficulty guaranteeing that their dependents will be well cared for in the future after their dependents' caregivers are no longer living. Many families would like to contribute assets to assist with future care of their dependents without fear of losing benefits from such federal programs as Medicaid and Supplemental Security Income.

Your Committee further finds that there is a need for innovative financial planning for families which care for their disabled dependents who are eligible for federal financial assistance. The Department of Health testified that this bill reflects the recommendations of a study of this concept which was conducted in response to House Concurrent Resolution 326 passed by the 1991 Legislature.

Your Committee has amended this bill to address concerns expressed by the Department of Health related to the protection of public assistance benefits and to provide for a new chapter due to the uniqueness and novelty of this concept.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 3298, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3298, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Koki.

SCRep. 1764 Judiciary on S.B. No. 279

The purpose of this bill is to establish a bi-partisan five-member state elections board to assume the current responsibilities of the Lieutenant Governor with respect to elections and to amend the election laws, accordingly.

Your Committee received testimony in support of the concept of the bill from the Lieutenant Governor and Common Cause Hawaii.

The Lieutenant Governor testified that he supported an investigation into the establishment of a separate board because, although he has no doubts about the security of the election system, he is concerned that there is an appearance of impropriety when an elected official heads the elections. The Lieutenant Governor recommended that a blue ribbon ad hoc committee be established to study the different methods of electing, administering and staffing a commission and to consider adding or changing the responsibilities of the lieutenant governor if election responsibilities are removed.

Common Cause Hawaii supported the removal of elections from the purview of the lieutenant governor but recommended that the board be nonpartisan and not fully appointed by the governor as recommended in the bill.

After considering the testimony, your Committee amended the bill to establish a temporary state elections board to monitor the 1992 elections. The temporary board will then report to the legislature on the feasibility of having the lieutenant governor replaced as the chief elections officer and recommend statutory changes to accomplish such replacement.

Your Committee finds that the establishment of a temporary, rather than a permanent, board will allow the State to "test run" the idea of a state elections board, to study the feasibility of replacing the lieutenant governor as the chief elections officer, while at the same time insure that the 1992 elections proceed without disruption.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 279, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 279, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1765 Judiciary on S.B. No. 653

The purpose of this bill is to establish procedures for the publication and dissemination of voter information pamphlets, which are intended to give voters more information about candidates, ballot propositions and the electoral process.

Your Committee received testimony from a private individual who stated that the bill provides a means by which all candidates are given an equal space to express their points of view and an opportunity to better educate the voters about the candidates and issues.

Your Committee understands and agrees with the concept of the bill -- to educate the voters on the candidates and issues. However, the bill raises concerns as well. Your Committee recognizes that, in dealing with candidates, the government is torn between two evils -- controlling candidate-supplied information, with a consequent risk of distortion, or

not limiting the information supplied by candidates and risking the government's association with distorted, inaccurate and even defamatory material. Unless there is a more objective way of obtaining information on candidates and views without relying on the submission of information by the candidates themselves, your Committee is reluctant to recommend such a proposal. Your Committee therefore deleted those provisions pertaining to candidate information from the bill.

However, your Committee finds that a pamphlet with information on ballot propositions and the electoral process will still be useful for voters and therefore retained those provisions.

Your Committee also added an appropriations provision, leaving the amount blank to be further addressed by the Committee on Ways and Means.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 653, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 653, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1766 Judiciary on S.B. No. 1164

The purpose of this bill is to appropriate monies from the State's general fund to develop and implement an information system that will collect, analyze and disseminate juvenile offender information to assist juvenile justice agencies.

Your Committee received testimony in support of the bill from the Judiciary, Department of the Attorney General, Department of Public Safety, Office of Youth Services, Kauai County Prosecutor, Hawaii County Prosecutor, Honolulu Police Department, Maui Police Department, Kauai Police Department, Hawaii Police Department, and the Juvenile Justice Information Committee.

Two laws were enacted last year with respect to the juvenile justice information system. Act 311 provided the enabling legislation for the Juvenile Justice Information System ("JJIS"), which is intended for use by juvenile justice agencies to track juvenile offenders and provide data collection for management and research purposes. In addition, Act 296 mandated a study on the possible integration or cooperative development of the juvenile and adult information systems. The study has since been completed and steps have been taken to develop the two systems cooperatively, as recommended. With sufficient funding, the system can be completed in the next biennium.

Your Committee finds that a statewide juvenile justice information system is necessary to appropriately process juveniles in the criminal justice system and promote better cooperation and coordination among the agencies involved in the treatment and rehabilitation of these offenders.

In light of the testimony, your Committee amended the bill by deleting the appropriation for fiscal year 1991-1992, increasing the appropriation for fiscal year 1992-1993 to \$1,960,964, and changing the effective date.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1164, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1164, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1767 Judiciary on S.B. No. 2257

The purpose of this bill is to create a mechanism to gather data and statistics on the nature and extent of hate crimes in Hawaii. It requires the department of the attorney general to collect data, for the calendar year 1992 and each of the succeeding four calendar years, about crimes in Hawaii, including complaints, investigations, arrests, indictments, pleas, and convictions that exhibit signs of prejudice based on sex, sexual orientation, race, national origin, religion, age, and physical and/or mental disability.

Your Committee heard testimony in support of the bill from the Hawaii Civil Rights Commission, State Commission on the Status of Women, Japanese American Citizens League and Hawaii Women Lawyers. The Committee agrees that hate crime statistics should be collected in order to determine the scope and extent of the problem in Hawaii. This will enable the Legislature and other policy makers to see whether changes in resource allocation or statutory amendments are needed to deter these crimes. Although in agreement with the purpose of the bill, the State Attorney General's Office and the Honolulu Police Department expressed reservations about the imposition of additional data collection responsibility on an already strained Uniform Crime Reporting Program.

According to the Attorney General's Office the reporting of crime statistics under the Uniform Crime Reporting Program is six months behind schedule. Reasons cited for delay were that the system is not fully automated (only the Honolulu Police Department generates UCR data by computer) and the lack of personnel and resources in the neighbor island police departments. Because of these problems, the Department of the Attorney General is unable to comply with the Federal Bureau of Investigation's request to participate in the reporting of hate crime statistics under the Uniform Crime Reporting Program.

Your Committee believes that the State should participate in reporting hate crime statistics to the Federal Bureau of Investigations for two reasons: (1) it will enable the State to compare with other jurisdictions the number of hate crimes reported; and (2) the Legislature and other policy makers will have the necessary information to thoughtfully consider changes to current laws. However, your Committee cannot ignore that the present State Uniform Crime Reporting Program is deficient and that to impose additional responsibility will overload the system. Moreover, this bill expands the

coverage of hate crimes to include those based on gender, age, national origin, and mental and/physical impairment, thereby adding additional data elements to be collected by the police departments of the counties.

After careful deliberation, your Committee adopted an alternative which accommodates the need to collect hate crime information, balanced with the need to maintain the integrity of the present Uniform Crime Reporting Program. The bill was amended to allow the Department of the Attorney General time to develop a model for the collection of hate crime data and includes an appropriation therefor. An expert consultant can be employed to develop the model data collection mechanism and at the same time ascertain the appropriate hardware, software, and personnel for the State and respective police departments. In addition, as amended, the Department of the Attorney General is required to submit the model, together with findings, recommendations, and any necessary implementing legislation, to the Legislature twenty days before the convening of the regular session of 1993.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2257, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2257, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1768 Judiciary on S.B. No. 2288

The purpose of this bill is to make an appropriation from the State's general fund to allow the City and County of Honolulu Police Department to establish a statewide blood and saliva testing program.

Your Committee received testimony in support of the bill from the Honolulu Police Department.

Your Committee adopted the recommendation of the Honolulu Police Department by deleting "personnel" and adding "the creation of a data bank," amending the total appropriation from \$138,000 to \$160,000. The amendment would allow the Honolulu Police Department to design compatible positions within the existing personnel system and also provide additional profiling for a required data bank.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2288, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2288, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1769 Judiciary on S.B. No. 2419

The purpose of this bill is to appropriate funds to pay for a special deputy attorney general to represent the Hawaii Civil Rights Commission in a lawsuit filed by a former investigator of the Commission.

The Hawaii Civil Rights Commission testified that retention of an outside attorney is necessary because the Department of the Attorney General, which would ordinarily represent the Commission, has a potential conflict of interest in this case. The Department represents state agencies in lawsuits and has defended some agencies in lawsuits filed by the Commission. A potential conflict of interest arises because of the possibility that the Department will obtain information regarding management policies and other internal matters in this case that could be used against the Commission in other cases. The Commission testified that it has entered into a contract with Paul Alston of Alston, Hunt, Floyd & Ing and that Mr. Alston is well qualified to represent the Commission.

The Chamber of Commerce of Hawaii opposed the bill and any other bills authorizing expenditures on the Civil Rights Commission because the Commission, being a fairly new agency, lacks a track record of efficient and professional investigation and resolution of charges of discrimination. The Chamber requested that the conflict of interest issue be scrutinized, as well as expenditures that may divert resources needed for education and housing.

Your Committee finds that the Commission is entitled to representation by counsel in the same manner as other state agencies. If the Attorney General is unable to represent the Commission and an outside attorney is hired, that attorney should be entitled to reasonable costs and fees.

However, your Committee is concerned that a conflict may arise as a result of the special deputy's representation of both the Commission and those members who are individually named as defendants to the action. Your Committee strongly urges the Commission, its attorney and the Attorney General to review this matter as early as possible to determine whether separate counsel should be retained.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2419 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1770 Judiciary on S.B. No. 2229

The purpose of this bill is to amend rule 404 of the Hawaii Evidence Code by:

- (1) Allowing proof of prior similar acts committed by the same person against the same victim in prosecutions under Chapter 707 of the Hawaii Penal code and in self-defense cases to prove the victim was the first aggressor;
- (2) Requiring notice prior to the admission of evidence of prior acts; and

(3) Making nonsubstantive gender changes.

This bill adopts, in most part, alternative no. 2 of the three alternatives to Rule 404 amendments proposed in Final Report of the Committee on Hawaii Rules of Evidence ("Final Report"). All three alternatives offered a notice provision. In addition, the second and third alternatives offered to broaden rule 404 to allow proof of prior similar acts committed by the same person against the same victim to allow an inference that (1) the same person committed the present crime or crime alleged or (2) the alleged victim was the first aggressor. The only difference between the second and third alternatives is that the former is limited to prosecutions under Chapter 707 of the Hawaii Penal Code ("offenses against the person") and self-defense cases; the latter admits evidence also in Chapter 709 ("offenses against the family and against incompetents").

The bill, however, modifies alternative no. 2 by requiring notice regardless of whether a request for notice is made and to require more than a description of the "general" nature of the evidence.

Testimony in support of the bill was submitted by the Judiciary, the Honolulu Police Department and the Domestic Violence Clearinghouse.

The Honolulu Department of the Prosecuting Attorney, the Hawaii County Office of the Prosecuting Attorney, Hawaii State Committee on Family Violence, Fairness for Abused Women, HOPE for Battered Women and private individuals supported amendment to Rule 404 but requested that it be further expanded to include offenses against the family in Chapter 709.

The Department of the Attorney General questioned the need to carve an exception to Rule 404 at all, stating that to do so would be to narrowly read the rule. Instead, the department said, the rule should be clarified to permit proof of prior acts whenever they are probative of the accused's state of mind.

The Public Defender and a criminal defense attorney vehemently opposed the bill, stating that the evidence of prior criminal conduct is so prejudicial that it deprives the defendant of the right to a fair trial and due process under the law. They testified that the bill would overturn settled common-law doctrine that has the approval of the Hawaii Supreme Court and would complicate and burden trials with highly prejudicial evidence. According to the opponents, there is no need for such modification of well-established doctrine; no other jurisdiction in the United States has adopted such a modification; and Hawaii should not be regressive by adopting the modification.

After reviewing all the testimony, your Committee finds, for the reasons set forth below, that an exception to rule 404(b) is justified.

The current rule 404, also known as the propensity rule, operates to exclude the use of character evidence to show that a person acted in conformity with character. Thus, subsection (a) sets forth the general rule which bars, with three stated exceptions, the use of character evidence when "offered circumstantially to prove the likelihood of particular character on a particular occasion." Commentary to HAWAII R. EVID. 404.

Subsection (b) goes a step further to exclude evidence of specific acts when offered to prove character and propensity. On the other hand, since the 404(b) bar applies only to acts to prove character and propensity; when proof of specific "crimes, wrongs, or acts" are offered for other purposes, the evidence may be admissible. HAWAII R. EVID. 404(b). Thus, evidence that a person committed previous murders is inadmissible if the purpose is to prove that the same person, more likely than not, committed the alleged murder in question. See State v. Pokini, 57 Hawaii 17, 548 P.2d 1397 (1976). In Pokini, the rationale stated by the Hawaii Supreme Court for rejecting the evidence was that the prior cases were "completely irrelevant to the...guilt of the defendant in this case...and were so prejudicial as to deprive the defendant of his constitutional right to a fair trial." 57 Id. at 21, 548 P.2d at 1400.

However, as pointed out by the United States Supreme Court in Michelson v. United States, 335 U.S. 469, 475-476 (1948):

[t]he inquiry is not rejected because character is irrelevant; on the contrary, it is said to weigh too much with the jury and to so overpersuade them as to prejudice one with a bad general record and deny him a fair opportunity to defend against a particular charge. The overriding policy for excluding such evidence, despite its admitted probative value, is the practical experience that its disallowance tends to prevent confusion of issues, unfair surprise and undue prejudice.

Propensity evidence is presumed to be of slight probative value and to be very prejudicial. Under rule 404(b), once the court determines that evidence of other crimes, wrongs or acts is offered only to show propensity to commit the crime at trial, there is no room for ad hoc balancing. The evidence is then unequivocally inadmissible. It is only after the court determines that it is probative of any other fact of consequence that the court may then apply the 403 balancing test. This was the analysis applied by the Hawaii Supreme Court in State v. Castro, 69 Hawaii 633, 756 P.2d 1033 (1988), which involved a defendant charged with attempted murder and first degree assault of his estranged girlfriend. In Castro, the Hawaii Supreme Court ruled that evidence of prior abuse by the defendant to the same victim was inadmissible. Because the evidence was proffered to show propensity to commit the crime at trial and could not be justified as proof of any other fact of consequence acceptable under Rule 404(b), the court concluded that the "incremental probative value of the evidence in question was not great" and that therefore the "potential for unfair prejudice being generated by the evidence was far greater than its value in establishing facts of consequence to the determination of the case." 69 Hawaii at 645, 756 P.2d at 1042.

The issue and thus the policy question to be considered by your Committee is whether propensity evidence is only marginally relevant and is substantially outweighed by its prejudicial value in every case? Your Committee finds that it is not.

Your Committee believes that, in some instances, "repetitious abuse of the same victim...is a phenomenon that reveals a heightened propensity on the part of the abuser" and, in those instances, "a heightened propensity that fully justifies a new exception to the Rule 404(b) exclusion." Final Report of the Committee on Hawaii Rules of Evidence, at 9. In a limited class of offenses involving similar and repeated violent acts committed by one person against the same alleged victim, the likelihood that the abuser will repeat the violence becomes so great that propensity evidence becomes more than marginally relevant.

Your Committee therefore finds that this bill is necessary to insure that evidence offered to show repeated abuse by the same person against the same victim is no longer assumed to be of marginal relevance. Under the new Rule 404(c), a pattern of prior similar violent acts, directed at the same victim, would henceforth be available to prove violent propensity and to overcome a mental, situation, or alibi defense.

Another situation affected by proposed rule 404(c) would normally affect accused persons. A person accused of assault or homicide who defends on the ground of self defense is entitled to prove that the alleged victim committed similar aggressions or assaults on previous occasions against the accused but only to show the reasonableness of the accused's fear of attack at the time the accused struck in self defense. In this situation, the prior assaults cannot be considered as evidence of the likelihood that the alleged victim was the aggressor on the occasion in question, for the reason that this use of the evidence would prove propensity and "action in conformity therewith" and thus violate rule 404(b). Rule 404(b), in such a situation, requires a jury instruction explicitly admonishing jurors not to consider the proof as affecting the likelihood that the alleged victim was in fact the aggressor; the Hawaii Supreme Court, however, has overlooked this problem in State v. Basque, 66 Haw. 510, 666 P.2d 599 (1983) (discussed in A. Bowman, Hawaii Rules of Evidence Manual 104-06 (1990), approving the admission of a defendant's record of attempted murder and robbery to prove aggressiveness and to support self defense. The court has thus already countenanced the sort of proof envisioned by proposed rule 404 (c)(2), and the proposal merely conforms the rule and approves the Basque result in this limited context. Final Report at 10.

Under the proposed 404(c), the court must determine whether the evidence of a prior act meets all requirements of the exception. If the evidence meets all requirements of the exception, the evidence is deemed to be probative. If, however, the evidence does not meet all the requirements of 404(c), then it is unequivocally inadmissible unless it tends to establish any other fact of consequence to the determination of the case, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, modus operandi, or absence of mistake or accident. HAWAII R. EVID. 404(b). If the evidence is deemed to be probative, then the court must consider whether the prejudicial impact of the evidence would be substantially greater than its probative value. E.W. CLEARY, McCormick on Evidence, §190 (3d ed. 1984).

Given that the defendant must be given the opportunity to refute or address such evidence or accusations to avoid unfair surprise, the proposed Rule 404(e) requires that the proponent provide reasonable notice in advance of trial of any such evidence it intends to introduce at trial. If the court excuses pretrial notice and admits the evidence, the other party should be given the opportunity to obtain witnesses and refute the testimony before the evidence is admitted.

When such evidence of a prior act is admitted, the defendant can introduce witnesses and fully refute such evidence or accusations, subject to the court's ultimate control under Rules 403 and 611.

Your Committee amended the bill by:

- (1) Limiting application of 404(c) to felony cases under either Chapter 707 or 709 so that it is applied only in the most serious of crimes and does not unduly prolong other types of cases; and
- (2) Limiting evidence of prior similar acts to those committed within twenty-four months prior to the incident which is the basis for the current prosecution. This amendment will insure that admission is limited to the most probative evidence.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No 2229, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2229, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1771 Health and Human Services on S.B. No. 2212

The purpose of this bill is to allow relatives who provide foster care to become qualified as foster boarding homes and receive state payments for board and care.

Your Committee finds that many relatives are providing foster care for children related to them, without compensation from the State for this care. Your Committee further finds that family preservation through kinship care is the desired alternative when removing children from their homes, and relatives who provide foster care should be entitled to the same considerations under the law as non-relatives.

Testimony submitted by the Department of Human Services indicates that including relatives as qualified foster boarding homes would have a significant fiscal impact. The Department further indicated that while they support the concept of foster day care for elderly relatives, the amendments contained within the bill would pose administrative problems.

Your Committee, therefore, has amended this bill by:

- (1) Modifying the definition of foster boarding home to conform with federal funding criteria;

- (2) Deleting Section 3. which refers to foster day care for elderly relatives;
- (3) Inserting a new section making an appropriation to the Department of Human Services for relatives providing foster care for children;
- (4) Inserting a new section requesting the Department of Human Services to submit a report to the Legislature identifying a plan to phase-in payments to relatives who provide foster care; and
- (5) Making technical amendments which do not affect its substance.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 2212, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2212, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1772 Health and Human Services on S.B. No. 2332

The purpose of this bill is to establish a standard of care for lead poisoning screening for all children and to mandate insurance coverage of such screening.

Your Committee finds that lead poisoning is one of the most common pediatric health problems in our nation today and its detrimental effects are totally preventable through routine screening. Your Committee received testimony from the Department of Health which indicates that lead poisoning affects children of all socio-economic classes, and exposure to even very low levels of lead can affect a child's development and behavior. Your Committee further finds that screening for lead poisoning is presently reimbursable under the Medicaid EPSDT guidelines, and health insurance coverage should be mandated for the screening of all Hawaii's children.

Upon further consideration, your Committee recognizes that prior to mandating any health insurance benefit, the Legislature must receive an assessment by the legislative auditor. Therefore, your Committee has amended this bill by:

- (1) Removing all references to mandating coverage by private insurers pending an assessment by the legislative auditor; and
- (2) Requesting an appropriation of \$350,000 to cover the screening of Medicaid-eligible children, as provided under federal EPSDT guidelines.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 2332, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2332, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1773 Health and Human Services on S.B. No. 2394

The purpose of this bill is to create a child care provider training center within the Department of Labor and Industrial Relations.

Your Committee finds that the lack of affordable quality child care is an issue which impacts not only families but the workforce in our State. Many employees are forced to choose between outside employment and caring for their children, and many must leave their children in the care of those who may not be properly licensed to provide child care. Your Committee further finds that the Department of Labor and Industrial Relations and the Office of Children and Youth have established a demonstration child care provider training project, wherein training and grants are available for persons who are willing to operate a licensed child care facility.

Testimony received from the Department of Labor and Industrial Relations and the Office of Children and Youth, support the intent of this bill. However, they recommend that the demonstration project continue for an additional year, before it is considered as a permanent program. Therefore, your Committee has amended this bill by:

- (1) Establishing the demonstration project for an additional year;
- (2) Deleting all Sections which make it a statutory program; and
- (3) Requiring a report to the Legislature prior to the convening of the 1993 regular session.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 2394, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2394, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1774 Health and Human Services on S.B. No. 2714

The purpose of this bill is to amend Chapter 326, Hawaii Revised Statutes, to make it compatible with current medical practices for Hansen's disease.

Your Committee finds that the patient-residents at Kalaupapa settlement and those residing in the community should receive health care on an equal basis. Your Committee further finds that the benefits afforded to formerly institutionalized patients should be transferrable should they desire to return to the community.

Your Committee has amended this bill by making technical amendments for the purposes of clarity and consistency.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 2714, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2714, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1775 Transportation and Intergovernmental Relations on S.B. No. 2824

The purpose of this bill is to provide reimbursement to the counties for the cost of motor vehicle plates issued to the State.

Your Committee finds that payment by the State to the counties for the actual cost of the motor vehicle plates is a justifiable request. The Director of Finance of the City and County of Honolulu submitted testimony indicating that 7,400 plates were issued to the State at a cost of \$14,415 for which the County received no reimbursement.

Your Committee has amended this bill to provide for reimbursement to the County for the actual costs of the plates, excluding administrative expenses and to make technical changes to the language for clarity.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 2824, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2824, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1776 Transportation and Intergovernmental Relations on S.B. No. 2918

The purpose of this bill is to add two new definitions for "large tour vehicle" and "medium tour vehicle" under chapter 251, Hawaii Revised Statutes, rental vehicle surcharge tax, to make it consistent with the Public Utilities Commission categorization. This bill also clarifies the definition of "rental motor vehicle" or "vehicle" to exclude light capacity trucks from the surcharge.

It is the intent of this bill to allow for flexibility in the tax law to conform with the Public Utilities Commission categorization even if the categorization changes in the future. It is also the intent of this bill that local residents should not have to pay the surcharge since they usually rent the light capacity trucks.

Your Committee finds that this administration bill is necessary as a housekeeping measure and also to effectuate the original intent of the law to apply the surcharge to tourists rather than residents.

Your Committee has amended this bill by changing the weight referred to in the exemption to a carrying capacity of more than one thousand pounds, so that smaller trucks and vans will also be included.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 2918, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2918, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1777 Planning, Land and Water Use Management on S.B. No. 2417

The purpose of this bill is to appropriate \$750,000 to be expended by the Department of Land and Natural Resources in fiscal year 1992-1993 on the drilling of an exploratory well on state land near Puu Anahulu in North Kona, Hawaii.

The project will include a pump test to determine the groundwater supply potential of the area.

Your Committee finds that this appropriation is necessary to complete the planned expansion of Hapuna State Park and development of other projects on Lalamilo lands.

Your Committee has amended this bill by increasing the appropriation to \$950,000.

Your Committee on Planning, Land and Water Use Management is in accord with the intent and purpose of S.B. No. 2417, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2417, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1778 Planning, Land and Water Use Management on S.B. No. 2739

The purpose of this bill is to provide stable and dedicated funding for the Natural Area Reserve System and the Forest Reserve Program.

The purpose of these Programs is to provide a comprehensive means of involving the private sector in the protection and enhancement of Hawaii's natural areas, valuable watershed lands, and unique ecosystems by providing funds to landowners who agree to protect such natural resources and through identification, establishment, and management of natural area reserves, operation of the Heritage Program, and provision of matching funds. Both Programs have special funds necessary to carry out their purposes.

This bill would change the Natural Area Reserve Fund from a special fund to a revolving fund. In addition, it specifies amounts to be deposited into the Funds of each Program out of proceeds from the Public Land Trust, and exempts both Programs from the requirements of Chapter 42, Hawaii Revised Statutes. The bill also provides an effective date of July 1, 1993 but specifies that funds appropriated for the Natural Area Reserves System shall be effective July 1, 1992.

Your Committee finds both Programs to be crucial to the preservation and enhancement of Hawaii's natural resources; however, your Committee is also cognizant of the opinion of the Auditor regarding proliferation of revolving funds, and has therefore deleted the conversion of the Natural Area Reserve Fund.

Your Committee has further amended this bill by deleting all specified amounts to be provided from the Public Land Trust and deleting the exemptions from Chapter 42. Amounts to be made available from the Public Land Trust should be decided after further consideration by the Ways and Means Committee, and your Committee finds that both Programs should be subject to the provisions relating to grants, subsidies, and purchases of service.

Finally, your Committee has made this entire bill effective July 1, 1992, deleted the provision in Section 3 relating to appropriation for the Natural Area Reserves System, and made nonsubstantive technical changes for the purposes of style and conformance with recommended drafting techniques.

Your Committee on Planning, Land and Water Use Management is in accord with the intent and purpose of S.B. No. 2739, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2739, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1779 Planning, Land and Water Use Management on S.B. No. 2783

The purpose of this bill is to appropriate \$120,000 for fiscal year 1992-1993 to be expended by the Department of Land and Natural Resources for the Hanauma Bay Educational Program.

The Program will submit quarterly reports to the expending agency and the City and County of Honolulu, and the Department, along with the University of Hawaii Sea Grant Extension Service, will develop a permanent funding plan for submission to the 1993 Legislature.

Your Committee finds that the Program provides essential services and information relating to conservation, marine education, island reef ecosystems, and appreciation of Hanauma Bay and the coral reefs of Hawaii as precious resources. It is currently operating under an open-ended conservation district use permit, but is only funded until July 1, 1992. This bill will provide funding to continue the Program.

Your Committee has amended this bill by clarifying that the Department of Business, Economic Development, and Tourism has jurisdiction over marine ecosystems and will be the expending agency for this appropriation and participate in the permanent funding task force. Your Committee has also made technical changes that have no substantive effect.

Your Committee on Planning, Land, and Water Use Management is in accord with the intent and purpose of S.B. No. 2783, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2783, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1780 Planning, Land and Water Use Management on S.B. No. 2951

The purpose of this bill is to establish the Kaneohe Bay Regional Council in the Department of Land and Natural Resources.

The Council will be composed of eight members who will implement the Kaneohe Bay Master Plan established by Act 208, Session Laws of Hawaii 1990, and carry out objectives to ensure the continued well-being of the Bay. An unspecified appropriation is provided for fiscal year 1992-1993 to enable the Department to carry out the purposes set forth in the bill.

Your Committee finds that this bill is consistent with the intent of Act 208 and will help ensure that Kaneohe Bay and its resources are appropriately maintained, enhanced, and preserved.

Your Committee has amended this bill as follows:

- (1) Defined "lead agency" as the Department;
- (2) Changed the membership of the Council to eight voting members and an unspecified number of ex officio non-voting members;
- (3) Revised or deleted some of the Council's duties; and

(4) Specified \$75,000 as the appropriation.

Your Committee has also made nonsubstantive cosmetic changes for the purposes of clarity and style.

Your Committee on Planning, Land and Water Use Management is in accord with the intent and purpose of S.B. No. 2951, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2951, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1781 Planning, Land and Water Use Management on S.B. No. 3210

The purpose of this bill is to grant general powers to the counties to provide by ordinance for establishment of community facilities special tax districts and authorize the financing of special improvements thereon through issuance of bonds.

Your Committee finds that this bill is consistent with Article VII, Sections 12 and 13 of the State Constitution, and represents a viable alternative for counties to carry out needed improvement projects.

Your Committee has amended this bill by requiring the counties to set time limits for the duration of community infrastructure districts and zones. Additionally, your Committee has provided a special tax reduction for landowners or lessees who pay transient accommodations taxes.

Your Committee has also made several nonsubstantive technical changes for the purposes of clarity and style.

Your Committee on Planning, Land and Water Use Management is in accord with the intent and purpose of S.B. No. 3210, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3210, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1782 Legislative Management on S.B. No. 2753

The purpose of this bill is to appropriate \$900,000 for the publication of the 1992 Replacement volumes to the Hawaii Revised Statutes (HRS).

Your Committee received testimony in support of this bill from the Director of the Office of the Legislative Reference Bureau, also the Revisor of Statutes for the State of Hawaii.

Your Committee finds that the HRS volumes have not been replaced since 1985. As a result, the size of the supplements to the bound volumes have become too thick. Consolidating these two sets would be more economical and would make for easier handling. Furthermore, the present supply of HRS volumes is low and is expected to be depleted in less than two years.

At the same time, two other projects could be undertaken with regard to the HRS at no additional cost. The first would be to replace present language with gender-neutral language when applicable. The second would be to validate the HRS in the SHADOW computer system presently being utilized.

Your Committee on Legislative Management is in accord with the intent and purpose of S.B. No. 2753 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1783 Housing and Hawaiian Programs on S.B. No. 2868

The purpose of this bill is to establish a rental housing trust fund to be administered by the housing finance and development corporation to provide loans or grants to developers of rental housing units for low-income households.

It is the intent of this bill to use general revenues in addition to revenues collected from the conveyance tax to subsidize the development of rental housing affordable to low and very low income families since the legislature finds that it is likely that the State of Hawaii will continue to be the primary developer of low-income rental units.

Your Committee has amended this bill to make technical changes which do not affect the substance of the bill.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of S.B. No. 2868, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2868, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1784 Housing and Hawaiian Programs on S.B. No. 2869

The purpose of this bill is to create a general excise tax exemption for any qualified person or firm involved in the planning, design, financing, construction, or sale of an affordable housing project by a private developer on which actual construction has started between July 1, 1992 and December 31, 1993 and which is completed by December 31, 1994.

It is the intent of this bill to provide incentive to private developers to develop housing which is affordable to low and moderate income families.

Your Committee finds that there is a shortage of affordable housing in Hawaii and that private developers must be encouraged to meet the affordable housing needs of Hawaii's residents.

Your Committee has amended the bill to define the term "actual construction" and to clarify the applicability of the exemption to projects which are unable to be completed by the December 31, 1994 deadline as a result of acts of god or circumstances over which the developer has no control. Your Committee has further amended the bill by making technical nonsubstantive amendments for the purposes of clarity and style.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of S.B. No. 2869, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2869, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1785 Housing and Hawaiian Programs on S.B. No. 3123

The purpose of this bill is to remove legislative review of the Office of Hawaiian Affairs' budget and financial plan.

Your Committee finds that legislative review of special funds is not required. This will preserve OHA as a quasi-independent entity as originally intended by the 1978 Constitutional Convention. However, OHA is still required to submit its budget and financial plan to the legislature.

Your Committee has amended this bill by making nonsubstantive technical changes for the purposes of clarity and style.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of S.B. No. 3123, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3123, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1786 Housing and Hawaiian Programs on S.B. No. 3444

The purpose of this bill is to clarify portions of the budget of the Office of Hawaiian Affairs (OHA). Specifically, this bill:

1. Eliminates the provision in the budget of the Office of Hawaiian Affairs that states which organizations may be represented on the sovereignty advisory council;
2. Clarifies which agency shall expend the general and special funds appropriated by the legislature in 1992-93;
3. Provides that the funds appropriated in 1992-93 shall be expended, by OHA for the support of Hui Na'auao; and
4. Eliminates the requirement that the funds appropriated for the support of Hui Na'auao must be matched with federal funds.

It is the intent of this bill is to clarify that the Office of Hawaiian Affairs is the expending agency for general funds and special funds appropriated in 1992-93 and that those funds to be used to support the Hui Na'auao, instead of the sovereignty advisory council. This bill intends to clarify that the 1992-93 appropriations are to be expended by OHA whether or not those funds are matched by federal funds.

Your Committee has amended the bill by deleting requirements relating to the sovereign advisory council. Your Committee has further amended the bill to provide that Hui Na'auao is the agency to be supported by OHA's expenditures of the 1992-93 funding of \$150,000.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of S.B. No. 3444, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3444, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1787 Planning, Land and Water Use Management on S.B. No. 3118

The purpose of this bill is to appropriate an unspecified sum to be expended in fiscal year 1992-1993 by the Department of Business, Economic Development, and Tourism for land acquisition, design, and construction of a warehousing district industrial park in Honolulu.

Your Committee finds that the limited supply of industrially zoned land and recent increases in Oahu's land prices have adversely impacted on the cost of renting industrial space. This bill will increase the availability of industrially zoned property at reasonable rental rates for businesses that provide essential goods and services to the public.

Your Committee has amended this bill by providing that the City and County of Honolulu shall retain primary authority relating to planning and land use in connection with this project, and by making some nonsubstantive technical amendments for purposes of clarity and style.

Your Committee on Planning, Land and Water Use Management is in accord with the intent and purpose of S.B. No. 3118, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3118, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1788 Judiciary on S.B. No. 1843

The primary purposes of this bill as originally introduced were: (1) to define certain firearms as "assault firearms" both by reference to characteristics of the firearm, such as having a fixed magazine with a capacity exceeding eighteen rounds, and by specifying certain firearms, such as the AK-47 and the Uzi; (2) to require registration, by January 1, 1992, of any "assault firearms" lawfully obtained prior to July 1, 1991; (3) to severely restrict the transferability of "assault firearms" after July 1, 1991; and (4) to prohibit detachable firearm magazines with a capacity in excess of eighteen rounds, including those acquired before the effective date of July 1, 1991.

I. Public Hearing and Supplemental Testimony

Your Committee held a public hearing on February 19, 1991, in the Capitol auditorium, received voluminous written testimony, and heard over three hours of oral testimony. At the close of the hearing, the chair deferred decision making and requested supplemental testimony from the bills proponents:

- (1) To address the appropriateness of designating weapons "types", in light of the decision in State v. Grahovac, 52 Hawaii 527, 480 P.2d 148 (1971), instead of designating specific models; and
- (2) To establish the specific characteristics of each assault weapon which made it "ultrahazardous."

The Attorney General, for the proponents, was given a week to supplement his testimony. The subsequent week was assigned for the bill's opponents to review and critique the proponent's supplemental testimony.

The Attorney General submitted the proponents' supplemental testimony on February 26, 1991, in a volume entitled "A Report To the Senate Judiciary Committee on Assault Weapons Included in S.B. No. 1843."

Opponents of the bill were given copies of the Attorney General's supplemental testimony on February 27, 1991. They submitted detailed rebuttal/supplemental testimony on March 5, 1991.

II. Grahovac

Addressing the issue of adequate specificity in criminal statutes the Attorney General proposed to the Committee that additional specific models be inserted, including 12 models of the AK "type" weapon, in lieu of reliance on the word "types."

III. The Federal Constitution: The Second Amendment

The threshold issue, in your Committee's decision making, was the bill's opponents' Second Amendment argument.

"A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed."

Your Committee received a steady flow of material on the Second Amendment, including five law review articles, a book, and a reprint of a Congressional subcommittee report. In addition, the Legislative Reference Bureau published a monograph entitled A Clash of Arms: The Great American Gun Debate which includes a section on the Second Amendment.

There are two competing theories on the scope of the Second Amendment: the "collective right" theory and the "individual right" theory.

A. Individual Right. The "individual rights" theory holds that the framers of our federal constitution used the word Militia to mean armed individuals, not just specifically organized units. This interpretation allows the reference to "the right of the people" to be given the same meaning in the Second Amendment that it is given in the First Amendment and the Fourth Amendment. Proponents of this theory believe that the Second Amendment was applied to the States by incorporation through the 14th Amendment. A good discussion of the "individual right" theory can be found in the February 1982 "Report of the Subcommittee on the Constitution of the Committee on the Judiciary of the United States Senate, Ninety-Seventh Congress."

The "individual rights" theory has support from some legal scholars, historical documents contemporaneous with the founding of our nation and English tradition since the laws of Alfred the Great in the 9th Century, yet it has never been adopted by the federal courts.

B. Collective Right. The "collective right" theory holds that the right to bear arms is only a collective right of state militia. The Second Amendment, under this theory, merely prohibits the federal government from interfering with the right of the states to maintain a militia. This theory focuses on the words "A well regulated Militia, being necessary to

the security of a free State" and interprets those words as a limitation on the scope of the right to bear arms. It does not apply the Second Amendment to the states, which are free to regulate or ban any and all firearms.

Because interpretation of the Second Amendment by the Supreme Court of the United States has been infrequent (only once in this century,) and somewhat peripheral (not involving a ban on any firearm), it is instructive to review the decisions of the circuit courts of appeal which apply the decisions of the Supreme Court.

The "collective right" theory has been adopted in every instance where the issue has been directly addressed by an appellate level federal court. The following cases are illustrative: United States v. Nelsen 859 F.2d 1318 (8th Cir. 1988); United States v. Johnson 497 F.2d 548 (4th Cir. 1974); Stevens v. United States 440 F.2d 144 (6th Cir. 1971); United States v. Tot 131 F.2d 261 (3rd Cir. 1942), rev. on other grounds, 319 U.S. 463 (1943). An actual ban was involved in the case of Quilici v. Village of Morton Grove, 695 F.2d 261 (7th Cir. 1982), cert. denied, 104 S.Ct. 194 (1983).

The Court of Appeals for the Seventh Circuit, in Quilici v. Village of Morton Grove, applied the United States Supreme Court's decision in Presser v. Illinois, 116 U.S. 252 (1886) in very firmly finding that the Second Amendment supported only the collective right of the states to maintain their militia without federal interference:

"It is difficult to understand how appellants can assert that Presser supports the theory that the second amendment right to keep and bear arms is a fundamental right which the state cannot regulate when the Presser decision plainly states that '[t]he Second Amendment declares that it shall not be infringed, but this means no more than that it shall not be infringed by Congress.' This is one of the amendments that has no other effect than to restrict the powers of the National government..."

The Supreme Court of the United States received a discretionary petition appealing this decision of the Seventh Circuit but declined it.

Having reviewed the relevant case law and recognizing that it is the province of the federal courts to interpret the Constitution of the United States, it is the opinion of your Committee that the Second Amendment does not limit a state legislature from considering legislation such as is before us in S.B. No. 1843.

IV. The State Constitution: Article I, Section 17.

The second issue, in your Committee's decision making, was the import of Article I, Section 17 of our Hawaii State Constitution, which is essentially identical to the Second Amendment.

There has been no judicial interpretation of Article I, Section 17 of the Constitution of the State of Hawaii. Therefore, your Committee looked to the history of this section from the 1950 Constitutional Convention through the 1978 Constitutional Convention. Of special interest is Committee of the Whole Report No. 5, from Volume 1 of the 1950 proceedings, which reads, at page 303, in pertinent part:

"This section incorporates the 2nd Amendment to the Federal Constitution. Your Committee wishes to make it clear that this section will not render invalid the existing laws of the Territory, which will be continued in effect by the State Constitution, relating to the registration, possession and carrying of firearms, nor will it prevent the legislature from passing other reasonable restrictions on the right to acquire, keep or bear firearms or other weapons, including the power of the legislature to entirely prohibit the possession of such modern and excessively lethal weapons as machine guns, silencers, bombs, atomic weapons, etc. Upon this understanding, your Committee recommends the adoption of this section."

Your Committee concluded that Article I, Section 17 created a qualified "individual" right to bear arms. A "collective right" theory is logically inapplicable in the context of a state constitution. At the federal level, finding that the words create a right of the sovereign states to maintain their militia without federal infringement is a sensible construction. At the state constitutional level, the state assumes the role analogous to the federal government's but there is no entity to assume the role analogous to that of the state. For example, it is not a right of the counties to maintain militia free of state infringement. Nor could it logically be to allow the state militia to operate free of state infringement. Finally, it could not be a state limitation on federal infringements. By simple process of elimination it must create an individual right to bear arms.

While almost all state's constitutions have some counterpart to the federal Second Amendment, only four states, in addition to Hawaii, have adopted the complete language of the Second Amendment as state constitutional provisions: Alaska, North Carolina, South Carolina and Virginia. Of the four, your Committee only found pertinent judicial construction in North Carolina. In North Carolina, the adoption of the language of the Second Amendment was interpreted as creating an individual right. State v Fennell 95 N.C. App. 140, 382 S.E. 2d 231, 233 (N.C. App. 1989). State v Dawson 272 N.C. 535, 159 S.E. 2d 1 (1968).

The proceedings of the 1950 constitutional convention make it clear, however, that the individual right to keep and bear arms is not absolute. The Territory of Hawaii already regulated firearms to a degree equaled by few, if any, of the 48 states. The delegates made it clear that the adoption of Article I, Section 17 would not strike down any of the existing firearms control legislation or prohibit the enactment of "reasonable" controls by future legislatures. The delegates drew the line at "excessively lethal" weapons, which the legislature could prohibit. Weapons which were not excessively lethal could be regulated, but not prohibited.

To give guidance on the types of weapons that would be "excessively lethal", the committee report included examples: "machine guns, silencers, bombs, atomic weapons, etc." The proponents of S.B. 1843 argued that the Committee should take an expansive view of this list, in light of its somewhat open ended conclusion with the abbreviation "etc." This we cannot do. It is well settled in the law of statutory interpretation that

"There is a rule of construction embodying the words *noscitur a sociis* which may be freely translated as 'words of a feather flock together,' that is, the meaning of a word is to be judged by the company it keeps." Advertiser Publishing Co. v. Fase, 43 Haw. 154 (1959).

This principle of construction was recently reaffirmed in State v. DeLeon ___ Haw. ___, 813 P.2d 1382 (1991).

V. Applying the Excessively Lethal Test

Your Committee, in reviewing the list provided by Committee of the Whole Report No. 5, inferred that at least one of the following is necessary in order for a firearm to be "excessively lethal": (1) that the weapon fires at a rate in excess of the rate of fire for weapons which are generally used for hunting, target shooting or self-defense, (2) that the firearm or ammunition has an ability to penetrate in excess of the normal penetration capability of firearms and ammunition used for hunting, target shooting or self-defense, (3) that the firearm or ammunition is of a size (caliber) or characteristic (armor piercing) that is not appropriate for hunting, target shooting or self-defense, or (4) that the weapon can be carried or used without attracting the attention that would result from the use of firearms generally used for self-defense, hunting or target shooting.

At the close of the hearing on February 19, 1991, the Chair had asked for supplemental testimony on the specific characteristics that made each of the listed weapons "ultrahazardous." Although the Chair had not then read the record of the constitutional conventions, the concepts of "ultrahazardous" and "excessively lethal" are essentially interchangeable.

Your Committee reviewed the proponents' supplemental testimony on each listed weapon with an open mind and concluded that many of the firearms listed were not "excessively lethal". For example, the presence of a folding stock does not make a carbine or rifle "excessively lethal". If fired with the stock folded, the weapon is less accurate and therefore less lethal. While it may make it somewhat more concealable, it is still less concealable than many handguns. Similarly, an attachment for a bayonet or flash suppressor does not make a gun "excessively lethal" because it is primarily the ability to fire bullets that makes a gun lethal.

VI. BATF "Sporting Purpose" v Article I, Section 17 "Excessively Lethal"

The list of "assault weapons" found in S.B. 1843 was developed primarily by utilizing the criteria derived from 18 U.S.C. §925(d)(3) and applied by the Bureau of Alcohol, Tobacco and Firearms (BATF) in determining that certain firearms are not "particularly suitable for or readily adaptable to sporting purposes" and, thus, not importable into the United States. Other states, notably California and New Jersey, have used similar criteria in drafting legislation designed to restrict ownership of these types of weapons. For a more complete understanding of the criteria, the reader should consult the "Report and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic Rifles" which was approved by the Director of BATF on July 6, 1989.

Under the BATF applied criteria, a weapon need not be excessively lethal, as that phrase is understood by your Committee and described above, in order for the weapon to be not "particularly suitable for or readily adaptable to sporting purposes." For example, a folding stock or the capacity to attach a flash suppressor is not deemed by your Committee to make a firearm "excessively lethal" but could make it less suitable or adaptable for sporting purposes.

The BATF applied criteria still protects the right of citizens to arm themselves for self-defense, hunting and sport shooting. But its use in the drafting of S.B. 1843, instead of the excessively lethal standard, was inconsistent with the Committee's interpretation of the state constitution.

VII. Purpose of S.B. 1843, S.D. 1

In light of the state constitutional limitation discussed above, the purpose of this bill, as amended and reported to the full Senate on March 8, 1991, was dramatically changed. Senate Draft 1 merely required the registration of all firearms by substituting the word "firearm" for the words "pistol or revolver" throughout Section 134-3(b), Hawaii Revised Statutes.

VIII. Floor Action During the 1991 Legislative Session

The Judiciary Committee reported its findings and conclusions in Senate Standing Committee Report Number 822, attached to S.B. No. 1843, S.D. 1. The bill was recommitted to the Judiciary Committee, prior to a floor vote, for further consideration of the constitutional limitation on legislative power. While Standing Committee Report Number 822 proposed that such further consideration occur in the House Representatives, the full Senate preferred to have the Senate's Judiciary Committee work on the bill during the interim.

IX. Resolution of Procedural Impediment: Constitutional Amendment

While the bills proponents and the Committee continue to disagree on the proper interpretation of Article I, Section 17, both agree that greater clarity is desirable. This can only be achieved by a judicial decision or by voter ratification of a constitutional amendment. The former has not occurred in three decades and is speculative for the foreseeable future.

Your Committee believes that the constitutional requirement of a finding that weapons are excessively lethal in order to ban them is an overly strict limitation on legislative discretion. In fact, the legislature has already enacted laws which some have suggested are in violation of Article I, Section 17. Specifically, it is not entirely clear that "electric guns" (§134-16) and handguns that melt at less than 800 degrees (§134-15) are "excessively lethal" as your Committee understands that phrase. Therefore, a constitutional amendment could both clarify and expand legislative authority.

Just such a proposed amendment of Article I, Section 17 is found in S.B. 2286, which was introduced on January 6, 1992. It proposes to expand the legislative authority to allow the legislature to ban guns which are not suitable for self-defense, hunting or sporting purposes. The standard proposed in S.B. 2286 is identical to the criteria applied by the Bureau of Alcohol Tobacco and Firearms, but uses a more descriptive terminology rather than adopting the "sporting purpose" language from 18 U.S.C. §925 (d) (3).

If this constitutional amendment is ratified by the electorate, it gives the green light to legislation like the original S.B. 1843. If rejected, such legislation is untenable.

Rather than delay action on S.B. 1843 until after the ratification vote on the proposed constitutional amendment, your Committee has tied the effective date on S.B. 1843 to the ratification of the amendment proposed in S.B. 2286.

X. Additional Supplemental Testimony

The vehemence of opinion on both sides of the issue made it important that the Committee provide ample opportunity for public input. Therefore, the Committee prepared a proposed S.B. 1843, S.D. 2 and proposed committee report and circulated hundreds of copies to those organizations and individuals who had testified at the hearing on February 19, 1991. As anticipated, the response was voluminous. In fact, it was at least equal to the volume of testimony received at the hearing on February 19, 1991.

XI. Amendments to S.B. 1843, S.D. 1

Your Committee, after considering the testimony received at the hearing on February 19, 1991, and all supplemental testimony received through February 10, 1992, made the following changes to S.B. 1843, S.D. 1:

1. While the bill generally reverts to its form as introduced, the BATF criteria were strictly applied.
2. All of the specific pistols and eight of the rifles and carbines were deleted, to reflect the decision to strictly apply the BATF "sporting purpose" test. The specific list of shotguns defined as assault weapons was reduced from six to two, also to reflect the decision to strictly adhere to the BATF "sporting purpose" criteria.
3. The definition of "assault weapons" was expanded to include all, not just semiautomatic, shotguns with the requisite magazine, grip or stock characteristics.
4. The amendments to section 134-3(b), embodied in S.B. 1843, S.D. 1, were omitted. That subject will be addressed in a hearing on S.B. 2838, scheduled for February 20, 1992.
5. The Attorney General's recommendations regarding the Committee's Grahovac concerns were adopted, except that his recommendation that firearms "redesigned from" or "patterned after" the specific "assault weapons" be defined as "assault weapons" was omitted. Such language may be read too broadly and is subjected to reasonable disagreement as to its application in particular cases. The possible imposition of criminal sanctions requires greater specificity.
6. Two subsections on weapons with eighteen round capacity fixed magazines were combined and expanded to include all such weapons and not merely those which are also semiautomatic.
7. The references to "automatic firearm" and "firearm capable of either automatic or semiautomatic operation" were deleted to avoid the incorrect inference that such weapons could be legally registered as assault weapons.
8. A definition of "pistol grip" was added.
9. The dates for ownership and registration were extended to reflect the carryover status of the bill and the inter-relationship with the proposed constitutional amendment.
10. The process for participation in an organized marksmanship match with a Colt AR-15 or Colt CAR-15 was modified to allow participation by first time competitors.
11. Persons who obtain title, by bequest or intestate succession, to a semiautomatic M-14, Colt AR-15 or Colt CAR-15 may register the weapon and use it solely at a target range operated by the United States military.
12. The penalty provisions were substantially softened out of a concern that the former penalties, while appropriate to the offenses as previously defined, might be too harsh in light of the increased risk of an offense being committed, under the new language, by persons less dangerous to society.
13. The effective date of the bill was amended to make it contingently effective upon the ratification of an amendment to Article I, Section 17, which is proposed by S.B. 2286.

XII. Application of the BATF Criteria

Before concluding, a few words on the Committee's adoption and application of the BATF criteria are in order. In substituting the "sporting purpose" test for the "excessively lethal" test, it was important to strictly apply the new criteria and conform S.B. 1843, S.D. 2, to the proposed amendment to Article I, Section 17 as expressed in S.B. 2286.

In doing so, the Committee relied heavily on the supplemental testimony submitted by the Attorney General on February 26, 1991. If that testimony listed a particular weapon as "Bush Administration prohibits importation into the U.S.", said weapon was retained in S.B. 1843, S.D. 2. No independent verification was made as to the presumed correlation of that statement with the BATF applied criteria, as the bills opponents did not contest that portion of the proponent's

supplemental testimony. Weapons which were manufactured in the United States, and therefore not subject to an importation ban, were retained in S.D. 2 if the Attorney General's supplemental testimony indicated that the Secretary of the Treasury "announced" them to have avoided the ban because of domestic manufacture. Weapons not so described, even if covered by similar legislation in California or New Jersey, were deleted.

Had the Attorney General been, at the time the supplemental testimony was submitted, aware of the ultimate importance that would attach to the BATF criteria; it is possible that the testimony would have been more exhaustive on this point. Similarly, the opponents may well have focused their rebuttal on the logic and specific application of the BATF's criteria and findings.

It is your Committee's hope that its application of the BATF criteria has not been grossly overinclusive or underinclusive. However, we candidly acknowledge that this is an area which needs additional scrutiny. While most of the testimony in the Senate was devoted to the broader and more philosophical disagreements, it is hoped that subsequent hearings in the House of Representatives will generate more focused and complete testimony on the application of the BATF criteria.

While the deletion of so many specific weapons suggested for inclusion by the Attorney General may appear to be a major amendment, it must be remembered that most of the deleted weapons have standard magazines with a capacity in excess of eighteen rounds and would, for that reason, be prohibited in such a configuration even though they were deleted from the specific listing.

XIII. Conclusion

Your Committee's decision, in effect, subjects S.B. 1843, S.D. 2 to a quasi-referendum vote. There are two benefits to this approach. First, it is quicker than reintroducing S.B. 1843 in 1993, contingent on the ratification of the proposed constitutional amendment in November of 1992. Second, and more importantly, it provides a specific example of the exercise of legislative discretion authorized by the proposed constitutional amendment. The electorate can, thus, inductively assess the desirability of ratifying the proposed amendment.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1843, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1843, S.D. 2.

Signed by all members of the Committee except Senator Koki.

SCRep. 1789 Judiciary on S.B. No. 2809

The purpose of this bill, which is a housekeeping measure, is to add a new section to Chapter 607, Hawaii Revised Statutes, which will specifically state that interest earned on court deposits, if not otherwise specified by court order or statute, shall be credited to the State of Hawaii.

According to the Judiciary, which testified in favor of the bill, all monies collected by the courts are presently deposited into interest-bearing bank accounts. Court orders normally direct division fiscal offices to deposit escrow funds into interest-bearing bank accounts with the interest credited to the depositors of such funds. For other types of collections, the courts do not normally issue court orders with deposit instructions. This bill will clarify the present practice in which the disposition of interest earned on funds collected by the courts, unless otherwise specified, is credited to the State of Hawaii.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2809 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Koki.

SCRep. 1790 Judiciary on S.B. No. 3307

The purpose of this bill is to appropriate funds to improve the ability of the Child Support Enforcement Agency (CSEA) to administer its program by providing more positions statewide and providing additional office equipment for the new staff.

A number of private individuals involved in the CSEA program submitted testimony in favor of the bill. The Department of the Attorney General supports the bill to the extent that it does not supplant funds contained in the executive budget.

According to the Department, present positions, many of which are lower level type positions, need to be upgraded in order to recruit and retain staff with the skills necessary to perform the tasks required. Furthermore, although its workload has increased 84% between 1985 to 1991, CSEA has had no increase during that period in the staffing level of full-time, professional, permanent staff. This situation has contributed to a growing backlog in almost all phases of the child support enforcement process.

Your Committee finds that the additional staff and equipment provided to CSEA are necessary to improve the administration of the child support enforcement program and provide better service to the public.

Your Committee amended the bill to correct computational errors.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 3307, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3307, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Koki.

SCRep. 1791 Judiciary on S.B. No. 3308

The purpose of this bill is to make an appropriation for the development and implementation of a statewide comprehensive automated child support enforcement program.

Testimony in favor of the bill was submitted by a number of private individuals who are associated with the Child Support Enforcement Agency (CSEA) either as a parent receiving child support or as a parent paying child support. The Department of the Attorney General supported this bill to the extent that it does not supplant funds contained in the executive budget.

A high percentage of Hawaii's child support caseload consists of non-paying cases, which are difficult to enforce with existing systems and procedures. The Child Support Enforcement Agency (CSEA) is responsible for administering the child support enforcement program in the State of Hawaii. However, problems have plagued CSEA. Following a performance audit by the Federal Office of Child Support Enforcement, the CSEA was found to be severely deficient in its operations and failed to meet certain compliance standards. As a result, the State faces an audit penalty, which is being deducted from federal funds awarded to the State Department of Human Services' Aid to Families with Dependent Children. Further, another audit by the Hawaii State Legislative Auditor found, among other things, that CSEA needed to complete the process of integrating and automating its operations.

Your Committee finds that an automated statewide child support enforcement system will reduce the percentage of non-paying bases, increase collections, and improve the overall administration of the program.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 3308, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3308, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Koki.

SCRep. 1792 Science, Technology and Economic Development on S.B. No. 1420

The purpose of this bill is to appropriate funds for the Hawaii Natural Energy Institute to conduct a study on the current state of electric vehicle technology and to make recommendations to encourage the widespread use of electric vehicles.

Your Committee finds that electric vehicles can operate by using nonpetroleum, alternative energy sources. These vehicles cause less air pollution than vehicles with internal combustion engines. It would therefore be in the public interest to seek ways to replace internal combustion engines with electric engines.

Your Committee has amended the bill by requiring that a report be submitted prior to the 1993 session rather than the 1992 session, by deleting the appropriation for fiscal year 1991-1992, by reducing the appropriation for fiscal year 1992-1993 from \$100,000 to \$50,000, and by changing the effective date of the bill from July 1, 1991, to July 1, 1992.

Your Committee on Science, Technology and Economic Development is in accord with the intent and purpose of S.B. No. 1420, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1420, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1793 Science, Technology and Economic Development on S.B. No. 2302

The purpose of this bill is to provide relocation assistance to any homeowner who meets certain eligibility criteria and who feels obliged to move away from a geothermal facility by providing for the purchase of that person's home by the State.

Your Committee heard testimony in favor of and opposition to this bill. Your Committee has amended this bill by:

- (1) Changing the definition of "dwelling" or "dwelling unit" to mean a legally permitted structure rather than any structure;
- (2) Defining the term "geothermal facility", deleting the definition of "geothermal development", and replacing all references to "geothermal development" with "geothermal facility", to limit the applicability of the bill to geothermal power plants, production facilities, and production or injection wells, rather than transmission lines and all other exploratory, testing, predevelopment activities, and geothermal development activities as defined in section 205-5.1(a), Hawaii Revised Statutes;
- (3) Defining the term "geothermal resource developer";
- (4) Changing the distance criterion to make the bill applicable to owner-occupants who reside within 3,500 feet, rather than one-quarter mile, of a geothermal facility;
- (5) Changing the purchase date criterion to make the bill applicable to dwellings purchased before January 1, 1986, rather than July 1, 1982;

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- (6) Adding a residency criterion to make the bill applicable only to owner-occupants who are bona fide residents of the State of Hawaii;
 - (7) Adding a new subsection (c) to section 3 to:
 - (A) Specify that an owner-occupant of a dwelling within 1,500 feet of a geothermal facility may apply to the department of land and natural resources for relocation;
 - (B) Specify that an owner-occupant of a dwelling more than 1,500 feet but less than 3,500 feet from a geothermal facility may apply to the department for relocation, subject to the documentation of adverse impacts resulting from a geothermal facility; and
 - (C) Require the department to adopt rules specifying the eligibility criteria for program participation, the means of documenting adverse impacts, and the minimum level of adverse impact required for program participation;and redesignating the remaining subsections;
 - (8) Changing the time within which the department is required to determine a person's eligibility to participate in the program established by this bill from ninety days to one hundred eighty days;
 - (9) Changing the time after which an application to participate in the program established by this bill is deemed to be granted, in the event that the department fails to render a determination of eligibility in writing, from ninety days to one hundred eighty days;
 - (10) Exempting the department from the public auction, drawing and negotiation, repurchase, reopening, purchase, and public inspection requirements of section 171-17, Hawaii Revised Statutes (appraisals; management and disposition of public lands);
 - (11) Deleting the provision allowing an owner-occupant to sell that person's dwelling and requiring the owner-occupant's agent to be approved by the department to represent the owner-occupant in any real estate transaction made pursuant to this bill;
 - (12) Requiring, rather than allowing, the owner-occupant's agent, to offer that person's dwelling for sale on the market for a period of one year from the date that the owner-occupant receives the appraisal or appraisals conducted by the department;
 - (13) Deleting the price ceiling applicable to owner-occupant dwellings that are required to be sold on the market for one year from the date that the owner-occupant receives the appraisal or appraisals conducted by the department and replacing the same with a minimum market price of not less than 100 per cent of the average appraised value received;
 - (14) Adding a provision to allow the removal or disqualification of any person, including an owner-occupant, from the program established under this bill, based on a reasonable belief of the presence of fraud;
 - (15) Changing the amount to be paid to an owner-occupant for the owner-occupant's dwelling, including the negotiated or actual sales price of the dwelling and any payments made from the geothermal mitigation fund, from 125 per cent of the average appraised value to 100 per cent of the average appraised value plus \$10,000, or 110 per cent of the average appraised value, whichever is lower;
 - (16) Providing that moneys paid out of the geothermal mitigation fund to make up the difference between the negotiated sales price for an owner-occupant's dwelling and one hundred per cent of the average appraised value plus \$10,000, or one hundred ten per cent of the average appraised value, whichever is lower, are to be applied to the purchase of a new dwelling in the State;
 - (17) Deleting the provision that prohibits a person from participating further in the program established under this bill if, upon receipt of the appraisal or appraisals conducted by the department, the owner-occupant elects not to sell the owner-occupant's dwelling; and redesignating the remaining subsections;
 - (18) Specifying that a dwelling to be sold at public auction is to have an upset price of not less than the amount paid for that dwelling;
 - (19) Deleting the proviso that prohibits a dwelling from being sold at public auction or purchased by the department for less than one hundred twenty-five per cent of the average appraised value and specifying that:
 - (A) If a dwelling is sold at public auction for less than one hundred per cent of the average appraised value plus \$10,000, or one hundred ten per cent of the average appraised value, whichever is lower, the owner-occupant is to receive the difference between that value and the actual sales price from moneys paid out of the geothermal mitigation fund, subject to the condition that these moneys are to be applied to the purchase of a new dwelling in the State; and
 - (B) If a dwelling is purchased by the department, the minimum purchase price shall be one hundred per cent of the average appraised value plus \$10,000, or one hundred ten per cent of the average appraised value, whichever is lower, subject to the condition that those moneys paid out of the geothermal mitigation fund for the purchase of the dwelling are to be applied to the purchase of a new dwelling in the State;

- (20) Changing the length of time that a person who purchases a dwelling sold under the program established by this bill is prohibited from reselling that property under the same from twenty-five years to twenty years from the date of that purchase;
- (21) Changing the provision that allows any owner-occupant who does not meet the distance and purchase date criteria to seek relocation assistance if there has been a significant change in circumstances since the time of the purchase of that dwelling such that exposure may endanger that person's health or safety to:
 - (A) Limit the applicability of the bill to owner-occupants who: purchased a dwelling before January 1, 1992; reside within three thousand five hundred feet of a geothermal facility; and are bona fide residents of the State of Hawaii;
 - (B) Require that an owner-occupant document adverse impacts in accordance with the rules adopted by the department in order to be eligible for relocation assistance; and
 - (C) Require that the costs of any such relocation assistance be borne by the geothermal resource developer;
- (22) Clarifying that the geothermal mitigation fund is created in the state treasury rather than the department;
- (23) Adding a provision requiring the department to adopt penalties;
- (24) Inserting the sum of \$500,000 into the appropriation section of this bill;
- (25) Adding provisions to allow for the imposition and collection of civil and administrative penalties; and
- (26) Making technical nonsubstantive changes.

Your Committee on Science, Technology and Economic Development is in accord with the intent and purpose of S.B. No. 2302, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2302, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1794 Science, Technology and Economic Development on S.B. No. 2455

The purpose of this bill is to establish a telecommunications and information technology and policy council to coordinate telecommunications and information technology activities within State government.

Your Committee finds that the rapid technological developments in the telecommunications industry require detailed planning and coordination to implement the State's information and telecommunications policy.

Your Committee has amended the bill by adding representation from the department of commerce and consumer affairs, the Hawaii public broadcasting authority, and the high technology development corporation to the council.

Your Committee on Science, Technology and Economic Development is in accord with the intent and purpose of S.B. No. 2455, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2455, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1795 Science, Technology and Economic Development on S.B. No. 2541

The purpose of this bill is to provide high technology companies with a tax rebate of the amount of general excise tax paid on the purchase of equipment.

Your Committee finds that this bill will enhance the development of the high technology industry in Hawaii by providing an incentive to create an equipment pool. This equipment pool, in turn, should increase the competitiveness of existing high technology firms, as well as provide resources to assist in the formation of new companies.

Your Committee has amended the bill by:

- (1) Changing the tax rebate to a subsidy from the corporation;
- (2) Changing the application process to make the high technology development corporation responsible for it rather than the department of taxation;
- (3) Requiring additional documentation from companies applying for the subsidy;
- (4) Requiring the high technology development corporation to adopt rules pursuant to chapter 91 and to include details of the equipment subsidy in its annual report;
- (5) Authorizing the department of business, economic development, and tourism to transfer \$50,000 from the Hawaii capital loan revolving fund to the high technology research and development revolving fund to initiate this subsidy;
- (6) Requiring the amount transferred between the funds to be repaid before December 31, 1993; and

(7) Making technical changes.

It is the intent of your Committee to support annual appropriations from the general revenues of the State for future reimbursements to the high technology development corporation for subsidies made to high technology companies for the purchase of equipment.

Your Committee on Science, Technology and Economic Development is in accord with the intent and purpose of S.B. No. 2541, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2541, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1796 Science, Technology and Economic Development on S.B. No. 3398

The purpose of this bill is to appropriate funds to initiate activities that would increase the transfer of international technologies and business to Hawaii.

Your Committee finds that the policy of the State is to assure a strong and healthy economy through the expansion and diversification of our economic base. To develop an international capacity, it would be prudent to hire international consultants with the necessary knowledge and skills to help bring international technologies and businesses to the State.

Your Committee on Science, Technology and Economic Development is in accord with the intent and purpose of S.B. No. 3398 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1797 Science, Technology and Economic Development on S.B. No. 3405

The purpose of this bill is to delete certain statutory powers of the Public Utilities Commission to investigate and cite water carriers operating without a certificate of public convenience and necessity.

Your Committee has amended the bill as follows:

- (1) By reinstating the investigative and citation provisions of the bill;
- (2) To provide for a penalty of \$100-\$500 for each day of an offense and deleting \$200-\$500 for each day; and
- (3) By providing for a hearing and penalties for water carriers and shippers who engage in fraudulent conduct of uncertified water carriage of property.

Your Committee on Science, Technology and Economic Development is in accord with the intent and purpose of S.B. No. 3405, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3405, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 1798 Science, Technology and Economic Development on S.B. No. 3414

The purpose of this bill is appropriate funds for a study to determine the feasibility of producing refuse derived fuel as an alternative energy source.

Your Committee finds that refuse derived fuel is a potential replacement for coal and oil used by sugar companies to supplement their seasonal supply of bagasse used to produce electricity. As the use of refuse derived fuel would lower the need for imported oil, it would be in the public interest to pursue this matter.

Your Committee has amended the bill by appropriating \$100,000 for the study, by including the feasibility of other clean fuel products in the study, and by replacing the department of business, economic development, and tourism with the department of health to receive the funds, conduct the study, and report back to the legislature.

Your Committee on Science, Technology and Economic Development is in accord with the intent and purpose of S.B. No. 3414, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3414, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1799 (Joint) Science, Technology and Economic Development and Planning, Land and Water Use Management on S.B. No. 2338

The purpose of the bill is to create a marine and coastal affairs program within the office of state planning to develop an overall ocean resources plan and policy.

Your Committees find that it is necessary to develop a more coordinated and consistent ocean management strategy and to nurture and protect our valuable marine and coastal resources. An effective marine and coastal affairs program will reduce conflicts over land and water uses, assure the protection of valuable resources, and increase opportunities for economic growth and diversification.

Your Committees have amended the bill as follows:

- (1) Increased and outlined council membership;
- (2) Made the deputy director a voting member of the council to avoid tie votes;
- (3) Reduced the appropriation amount from \$400,000 to \$200,000; and
- (4) Added a repeal date of June 30, 1996, if no options plan is approved by the governor before the adjournment of the regular session of 1996.

Your Committees on Science, Technology and Economic Development and Planning, Land and Water Use Management are in accord with the intent and purpose of S.B. No. 2338, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2338, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committees.

SCRep. 1800 Consumer Protection and Business Regulation on S.B. No. 2237

The purpose of this bill is to designate the Department of Commerce and Consumer Affairs (DCCA) as the agency in charge of regulating bail bond businesses.

Testimony submitted to your Committee on this measure by DCCA and the Professional Bail Agents Association of Hawaii was generally supportive but noted reservations as to how and when the regulation of the industry should commence.

Your Committee finds that very little monitoring of the bail bond business has been done in the past and that in most cases, all an applicant had to do in order to obtain a bail bond license was fill out an application and pay a registration fee. No minimum requirements were established or enforced.

Your Committee understands the concern DCCA has in regulating an industry which has very little data available to evaluate its soundness or practices. Therefore, your Committee has amended the bill by placing the regulation of bail bond businesses under Section 26H-4, Hawaii Revised Statutes, so that a sunset review of the industry can be conducted by the Legislative Auditor to determine if and how regulation of the industry should be conducted.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 2237, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2237, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1801 Consumer Protection and Business Regulation on S.B. No. 2919

The purpose of this bill is to amend the manner in which financial institutions in the State are taxed.

Your Committee received favorable testimony from the Department of Taxation (DTAX), the Hawaii Bankers Association, and the Hawaii Financial Services Association.

Your Committee finds that the bill is the product of over three years of work which first started with the recommendation of the Tax Review Commission, a study group comprised of industry officials, DTAX, and other concerned industry representatives.

During the course of this group's activities, it was determined that in today's financial marketplace, financial services are being provided by not only the traditional bank and thrift institutions, but other types of "financial service entities".

In realization of these findings, the Tax Review Commission recommended that the franchise tax be updated, streamlined, and made more like the corporate income tax. Additionally, the Tax Review Commission recommended that the general excise tax be amended to provide greater equality by eliminating the blanket exemption and replacing it with exemptions for specific types of income.

Specifically, the bill proposes to restructure the general excise tax exemption and delineate that the exemption shall apply only to amounts received as interest income, loan fees, fees relating to the customer's deposits, gains received from currency exchanges, certain trust company activities, brokerage services of interbank brokers, and the leasing of personal property.

In addition, the bill also proposes to make the income taxation of financial institutions substantially similar to the taxation of other corporations. In doing so, the method of determining income and the treatment of income by source would be nearly identical to the regular corporate tax rules. The deduction of federal income taxes would be eliminated and the treatment of capital gains would conform to the regular corporate tax treatment.

Your Committee further finds that the bill is a means by which the taxation of financial institutions may be handled in a more equitable and updated manner and which will also prepare the State for establishing a process to tax interstate banking, if the State so chooses to engage in it.

Your Committee has amended the bill by making a nonsubstantive amendment to correct a drafting error.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 2919 as amended herein, and recommends that it pass Second Reading, in the form attached hereto as S.B. No. 2919, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Koki.

SCRep. 1802 Consumer Protection and Business Regulation on S.B. No. 2922

The purpose of this bill is to clarify and conform the various statutes in the Hawaii Revised Statutes (HRS) relating to professional and vocational licensing.

Testimony in support of the measure was submitted by the Department of Commerce and Consumer Affairs' Professional and Vocational Licensing Division.

Your Committee finds that during the 1991 Legislative Session, the Legislature passed Act 111, otherwise known as the Uniform Professional and Vocational Licensing Act, which was codified as Chapter 436B, HRS. The passage of Act 111 completed the first phase of implementing a uniform licensing law. This bill is the second step in this ongoing effort.

The bill clarifies, strengthens, and removes redundancies from Chapter 436B and conforms the various licensing chapters of the HRS to the provisions of Chapter 436B.

Upon the request of the Department of Commerce and Consumer Affairs, your Committee has amended the bill by:

- (1) Adding the definition of "restore" or "restoration" to be inserted in Section 3 of the bill;
- (2) Deleting Section 10 of the bill;
- (3) Making a technical, nonsubstantive amendment to Section 137 of the bill;
- (4) Retaining "appointment and removal" in Section 198 of the bill for clarity; and
- (5) Renumbering sections of the bill accordingly.

Your Committee has also made several nonsubstantive technical amendments in accordance with recommended drafting techniques.

Your Committee finds that these amendments to the bill are consistent with the Legislature's intent to clarify, strengthen, and conform the various licensing statutes of the HRS.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 2922, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2922, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Koki.

SCRep. 1803 Consumer Protection and Business Regulation on S.B. No. 2279

The purpose of this bill is to amend Chapter 466, Hawaii Revised Statutes (HRS), by inserting language which would limit the circumstances under which a third party may bring a tort action against a public accountant.

Testimony in support of the bill was submitted to your Committee by the CPA Society of Hawaii and a number of certified public accountants.

Testimony in opposition to this measure was submitted by the Hawaii Academy of Plaintiffs' Attorneys and the Hawaii Bankers Association.

The State Board of Public Accountancy submitted opposing testimony on the ground that the provisions of the bill would be more appropriately placed in Chapter 663, HRS, rather than in Chapter 466.

Your Committee finds that it is unfair to hold a public accountant liable to a limitless class of potential plaintiffs, for limitless amounts, and for an unlimited time. Accordingly, your Committee also finds that certain safeguards must be established to protect the rights of these professionals.

Your Committee has amended the bill according to the recommendation of the Board of Public Accountancy and placed the new section in Chapter 663 rather than in Chapter 466. Additionally, your Committee has made other amendments to clarify when a public accountant may be held liable in a tort action and that nothing in the new section shall limit the State or federal government from bringing a civil action against a public accountant.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 2279, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2279, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 1804 Consumer Protection and Business Regulation on S.B. No. 2415

The purpose of this bill is to establish a new chapter in the Hawaii Revised Statutes (HRS) to regulate like-kind exchange intermediaries.

Your Committee received supporting testimony from the Department of Commerce and Consumer Affairs' Division of Financial Institutions.

Your Committee finds that presently there are no statutory provisions for the monitoring and licensing of exchange intermediaries who facilitate like-kind exchanges pursuant to Internal Revenue Code Section 1031.

Your Committee believes that, because these exchange intermediaries are routinely entrusted with large sums of money and title to real property, legislation should be enacted requiring their licensure for the protection of the public.

The proposed chapter is modeled after Chapter 449, HRS, pertaining to escrow depositories, which present similar issues.

Your Committee has amended the proposed penalty section of the bill (proposed section 19) to clarify that violators of the provisions of the chapter or rules adopted thereunder would be subject to an administrative penalty. Your Committee has also made technical, nonsubstantive amendments for the purposes of clarity and style.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 2415, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2415, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1805 Consumer Protection and Business Regulation on S.B. No. 2758

The purpose of this bill is to appropriate \$125,000 for payment of consultant fees by the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs.

Your Committee heard testimony in support of this measure from the Division of Consumer Advocacy indicating that it has been very effective in representing the concerns of consumers of lifeline services; namely electric, gas, telephone, and transportation services. Your Committee finds that in 1991 alone, the work of the division resulted in savings for consumers of over \$58 million.

Your Committee has amended the bill by increasing the appropriated amount from \$125,000 to \$200,000 and by making a technical amendment to reflect the proper title of the Division of Consumer Advocacy.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 2758, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2758, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1806 Consumer Protection and Business Regulation on S.B. No. 3100

The purpose of this bill is to simplify, modernize and clarify laws concerning the regulation, management, organization and activities of state-chartered financial institutions.

Testimony in support of this measure was submitted by the Commissioner of Financial Institutions, the Corporate Trustees Association, the Hawaii Credit Union League, and the Hawaii Savings League. The Hawaii Bankers Association and the Hawaii Financial Services Association expressed concerns about this measure.

Upon consideration, your Committee recognizes that while substantial progress has been made in drafting a modern Code of Financial Institutions, more time is needed to complete this project due to its scope and implications. However, your Committee believes that essential enforcement powers should be given to the commissioner even while work on the Code continues.

Your Committee has accordingly amended this measure to provide the Commissioner with the ability to assess greater penalties, and with other enforcement tools that will help ensure the safety and soundness of state chartered financial institutions.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 3100, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3100, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Koki.

SCRep. 1807 Consumer Protection and Business Regulation on S.B. No. 3275

The purpose of this bill is to amend the laws relating to insurance company taxation.

Your Committee received testimony in support of this measure from the law firm of Furutani, Sato, Komatsubara and Marshall.

The Department of Taxation, which submitted testimony in opposition to this bill, cited the questionable constitutionality of the multiple tax rate structure already in existence. This current structure has resulted in the holding of over \$106 million dollars in escrow pending a court decision.

Your Committee finds that the bill amends the insurance premium tax imposed under Chapter 431, Hawaii Revised Statutes (HRS), for domestic and foreign insurers. All domestic and foreign insurers will pay a tax of 4.75 percent of the gross premiums received, except for life insurance, disability insurance, title insurance and ocean marine insurance contracts. With respect to life insurance contracts, all insurers will be required to pay a tax of 3.197 percent of the gross premiums received. As for disability insurance and title insurance contracts, the tax will be 3.5 percent and 4.29 percent respectively. In the area of ocean marine insurance contracts, the tax assessed will be .8775 percent of the gross underwriting profits.

The bill requires insurers whose annual tax liability for the preceding calendar year was more than \$1000 to pay their taxes on a quarterly basis. Those insurers whose annual tax liability for the preceding calendar year was less than \$1000 will be allowed to pay their taxes on March 15th of each year.

The bill also provides tax credits for contributions made by an insurer to various employment related funds such as the unemployment insurance, workers compensation, and temporary disability insurance funds.

Your Committee has amended the bill by adding a new section which establishes a three year statute of limitations on the assessment, levy, collection, or credit of taxes on insurance companies.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 3275, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3275, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1808 Consumer Protection and Business Regulation on S.B. No. 3283

The purpose of this bill is to repeal Chapter 467D, Hawaii Revised Statutes (HRS), pertaining to the regulation of social workers, and to establish a new chapter requiring the licensure of those engaging in the practice of social work within the State.

Your Committee received testimony in support of the bill from the Department of Health, the Hawaii Chapter of the National Association of Social Workers, and the Hawaii Psychological Association.

Your Committee also received testimony from the Department of Commerce and Consumer Affairs (DCCA) and the Catholic Charities of Honolulu which indicated qualified support for the intent of the bill but reservations as to the manner in which this intent would be implemented under the bill as introduced.

Your Committee finds that, although there is some support within the health care community, licensure of social workers may not be appropriate at this point in time.

Your Committee observes that, according to the DCCA, the Legislative Auditor concluded in his November 1991 Sunset Evaluation Report, that the regulation of social workers is not warranted and that the Legislature should allow Chapter 467D to be repealed as scheduled.

Additionally, your Committee is concerned that, as written, the bill fails to address the peripheral services provided by closely related professions such as counselors and marriage and family therapists. The bill in its current form describes the social work profession in broad terms that would effectively prevent the aforementioned groups from providing their services. Additionally, while only federal employees are exempted in the bill, State and county employees should enjoy the same exempt status.

Further, social workers who are aliens and authorized to work in the United States, but do not have resident alien status, would not be allowed to obtain a license under the measure as written. In order to obtain resident alien status from the United States Department of Immigration and Naturalization Services, a long and costly process must be endured.

Your Committee is also concerned that licensure of social workers in the State may be used as a protectionist tool to discourage the proliferation of access to affordable help from social workers.

With these concerns in mind, your Committee has amended the bill by deleting SECTION 1 in its entirety. Your Committee has also delayed the repeal of Chapter 467D until 1995 in deference to a concern over the possibility of unscrupulous practices within the social work profession.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 3283, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3283, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Koki.

SCRep. 1809 Consumer Protection and Business Regulation on S.B. No. 3276

The purpose of this bill is to establish an education fund for the advancement of education in the field of pest control.

Your Committee received testimony in support of this measure from the State Pest Control Board and the Hawaii Pest Control Association.

Your Committee finds that the establishment of such an education fund would serve the public interest by providing pest control operators with updated information and application techniques that they may use to conduct their businesses in a responsible and effective manner.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 3276 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1810 Consumer Protection and Business Regulation on S.B. No. 3277

The purpose of this bill is to establish a commissioner's Education and Development Fund within the Department of Commerce and Consumer Affairs Division of Financial Institutions.

Your Committee received testimony in support of the measure from the Division of Financial Institutions.

Your Committee finds that the establishment of this fund will provide the Division of Financial Institutions with the resources needed to keep abreast with the changing nature of the financial services industry and enhance the division's ability to provide necessary training for its staff. Furthermore, the establishment of the fund will also help the Division maintain its accreditation by the Conference of State Bank Supervisors.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 3277 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1811 Consumer Protection and Business Regulation on S.B. No. 3278

The purpose of this bill is to permit an additional appropriation to continue the study and refinement of statutes proposed in S.B. No. 3100, Relating to the Recodification of Financial Institutions Laws.

Testimony in support of the measure was submitted by the Commissioner of Financial Institutions, the Hawaii Credit Union League, the Hawaii Savings League, Hawaii Bankers Association, and the Hawaii Financial Services Association.

Your Committee has been concerned with the measure because there was a lack of consensus regarding the structure that the proposed Code of Financial Institutions should take. While the Commissioner proposed one chapter with various individual articles, similar to other modern statutes, certain industries believed that a revision of only current chapters of law would be appropriate.

Your Committee has been advised that a consensus has been reached among all financial industries and that the proposed Code of Financial Institutions, set forth in S.B. No. 3100, can serve as the model vehicle.

Your Committee recognizes that changes will need to be made to the proposed Code of Financial Institutions since the measure will impact the regulation, operations, investments and powers of financial institutions. Further changes will entail further funding and expenditures. However, your Committee has been advised that the Hawaii Bankers Association is willing to commit its own resources to the completion of this project. A task force will be established with representatives of the various industries and the commissioner. A target date of September 30, 1992 has been established in order to resubmit Senate Bill No. 3100 as an Administration Measure.

Upon consideration, your Committee is encouraged by the developments that have taken place. However, your Committee believes that in difficult economic times, alternative sources of funding need to be explored and implemented. Your Committee has, accordingly, provided the Commissioner with the ability to assess fees on the industries that will be benefitted by and impacted by this project. This authority can be exercised upon approval of this measure if, in the Commissioner's discretion, the recodification is not proceeding to final completion by the September 30, 1992 date. And any assessments collected may also be used to pay for an independent legal review by the consultant retained by the Commissioner.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 3278, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3278, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Koki.

SCRep. 1812 Consumer Protection and Business Regulation on S.B. No. 3288

The purpose of this bill is to modernize escrow practices and strengthen the regulation of the escrow industry in the State.

Your Committee received testimony in support of this measure from the Department of Commerce and Consumer Affairs' Division of Financial Institutions and Title Guaranty Escrow Services, Incorporated.

Your Committee finds that the bill amends Chapter 449, Hawaii Revised Statutes, as a part of a legislatively-authorized project intended to modernize and recodify laws pertaining to financial institutions. Among other things, the bill

strengthens administrative penalties and requires escrow companies to secure the approval of regulators in the event of a change in control.

Your Committee has amended the bill by making technical, nonsubstantive amendments for the purposes of clarity and style.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 3288, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3288, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1813 Consumer Protection and Business Regulation on S.B. No. 3363

The purpose of this bill is to eliminate the requirement that at least one member of the board of directors of a Hawaii corporation be a resident of the State of Hawaii.

Your Committee received testimony in support of this bill from the Chairperson of the Corporations and Securities Section of the Hawaii State Bar.

Your Committee finds that the resident director requirement is a carryover from the State's old corporation code, found in Chapter 416, Hawaii Revised Statutes (HRS), and that it was established as an expedient means of serving process on corporations.

Your Committee further finds that service of process on corporations may be accomplished regardless of the presence of a resident director through the provisions of Section 415-14, HRS, which authorizes service upon the Director of Commerce and Consumer Affairs when a corporate officer or director cannot be found within the State.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 3363 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 1814 Consumer Protection and Business Regulation on S.B. No. 3365

The purpose of this bill is to streamline the process by which a corporation amends and restates its articles of incorporation.

Specifically, the bill adds a new section to Chapter 415, Hawaii Revised Statutes, which provides for amendment and restatement of articles of incorporation by resolution adopted by a corporation's board of directors.

While your Committee acknowledges that the bill streamlines the rather cumbersome procedure for amendment and restatement under existing law, it agrees with the recommendation of the Commissioner of Securities that a new section is not necessary to accomplish this.

Your Committee has therefore amended that bill by deleting the new section and incorporating provisions of the Revised Model Business Corporation Act into existing Section 415-64.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 3365, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3365, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senator Koki.

SCRep. 1815 Education on S.B. No. 2950

The purpose of this bill is to appropriate \$283,000 to establish a six-year comprehensive research program on Kaneohe Bay to be conducted by the Hawaii Institute of Marine Biology.

Your Committee heard testimony in support of this measure from the Hawaii Institute of Marine Biology, the Kualoa-He'eia Ecumenical Youth Project, the Sierra Club, and the Office of State Planning.

Your Committee agrees with testimony submitted by the former Chairman of the Land Use Committee of the Kaneohe Bay Master Plan Task Force indicating that the proposed research program would serve as an orderly, cost-effective means to assess and improve water quality in the bay. Your Committee finds that the project will address the findings and recommendations of the Task Force by monitoring water quality in Kaneohe Bay, identifying problems, and proposing management strategies that may be useful in dealing with similar problems elsewhere in the State.

Your Committee has amended the bill by adopting the recommendations of the Hawaii Institute of Marine Biology. This bill, as amended, would:

- (1) Provide that the proposed Kaneohe Bay research project be a multi-year program;
- (2) Involve the University Sea Grant Program in objectives 4, 6, and 7 in SECTION 2;
- (3) Eliminate objective 8 from SECTION 2 because it overlaps with the objectives of an existing program; and

(4) Appropriate \$220,000 for the project instead of \$283,000 to reflect the deletion of objective 8.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2950, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2950, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1816 Education on S.B. No. 3031

The purpose of this bill is to create a two-year pilot program within the Department of Education to be known as young scholars program and to appropriate funds for it.

It is the intent of this bill to provide early, continuous, and quality learning, and to support educational activities that include parents, teachers, students, and student peers as core support members in each student's educational progress. These activities help students acquire motivation, interest, and determination to pursue higher education. The funds provided in this bill are intended for the early identification of students and the provision of continuous and quality learning with support activities. This bill is actually an extension of the Hawaii Opportunity Program in Education (HOPE), which established a special fund to award scholarships for financially needy students to attend the University of Hawaii. This bill takes the process back further to the elementary school level.

Your Committee has amended this bill by rewording the purpose for clarity and understanding; by naming the program the Hawaii Young Scholars Program; and by including a repeal date of July 1, 1994 because this is a two-year pilot program.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 3031, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3031, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1817 Education on S.B. No. 3195

The purpose of this bill is to allow the establishment of a "health choice" school lunch option as a demonstration project in two public schools.

Your Committee finds that the importance of school lunches to our children's health makes it imperative that these lunches provide good nutrition and promote healthy eating habits. Your Committee further finds that a study of Hawaii school menus indicates that the average meal served to our students contained 39 percent calories from fat. Testimony submitted to your Committee indicates that the Surgeon General of the United States, the federal Department of Health and Human Services, and most nutrition and health associations recommend that fat intake be limited to 30 percent of daily calories consumed.

Your Committee has amended this bill by:

- (1) Allowing a demonstration project in two public schools at any level within the public school system; and
- (2) Making technical changes for the purposes of clarity which do not affect its substance.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 3195, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3195, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1818 Education on S.B. No. 3296

The purpose of this bill is to appropriate funds for a study of higher education on Maui.

Your Committee received testimony in support of the bill from the University of Hawaii and the Mayor of the County of Maui.

Your Committee finds that, according to the U.S. Census Bureau, Maui County is the fastest growing county in the State, having realized a population growth rate of forty-two percent in the last decade. Given this, the island's higher education needs should be assessed as a first step in planning for the educational future of its residents.

To facilitate the design and implementation of the study, your committee has amended the bill to designate Maui Community College as the expending agency.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 3296, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3296, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1819 Education on S.B. No. 3336

The purpose of this bill is to increase the number of tuition waivers at the University of Hawaii for Hawaiians and other minority students who are underrepresented at the university.

Your Committee finds that Hawaiians and other minorities deserve to have greater access to higher education and the financial constraints of tuition are a limiting factor in the number of minority students enrolled in the university system. Testimony in support of this bill was received from the University.

Your Committee has amended this bill by:

- (1) Increasing the total units of financial aid to twenty-five percent of full-time enrollment;
- (2) Deleting the word "Native" from the reference to Hawaiians;
- (3) Adding a severability clause; and
- (4) Providing that the community colleges may also give tuition waivers and by providing a five year limit for any student to receive a waiver.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 3336, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3336, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1820 Education on S.B. No. 3427

The purpose of this bill is to appropriate funds to establish a community-based education program and mentoring pilot project for early childhood education workers.

Your Committee finds that quality early childhood programs provide the best assurance that children will have the best chance to go on to complete their education and become productive members of society. There is a need for a better qualified work force in early childhood programs in Hawaii.

Your Committee has amended the bill by deleting references to the number of areas and the number of workers who will be reached through the early childhood education program. The program will be offered throughout the State.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 3427, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3427, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1821 Transportation and Intergovernmental Relations on S.B. No. 2219

The purpose of this bill is to appropriate funds for the design and construction of lighting along the Hawaii Belt Road and the Keaau-Pahoa Road in the county of Hawaii.

Your Committee has amended the bill by reducing the appropriation amounts for both projects as follows: from \$1,100,000 to \$200,000 for lighting along the Hawaii Belt Road and from \$1,100,000 to \$200,000 for lighting along the Keaau-Pahoa Road.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 2219, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2219, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1822 Transportation and Intergovernmental Relations on S.B. No. 2324

The purpose of this bill is to appropriate funds to design and construct accident-reducing improvements for Farrington Highway from Pilikoa bridge to Ala Hema Street.

Your Committee finds that it is in the public interest to promote safety and reduce the number of accidents on our highways.

Your Committee has amended the bill by replacing "Pilikoa bridge" with "Piliokoe Bridge" and by decreasing the amount appropriated from \$878,000 to \$115,000 to plan and design the improvements.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 2324, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2324, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1823 Transportation and Intergovernmental Relations on S.B. No. 2393

The purpose of this bill is to appropriate funds for the design and installation of traffic control lights at Ilima Intermediate School on Oahu.

Your Committee finds that installation of traffic lights promotes public safety as it assists in traffic flow and safe crossing for pedestrians.

Your Committee has amended the bill by inserting an appropriation of \$20,000 for planning and design of the traffic control lights.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 2393, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2393, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1824 Transportation and Intergovernmental Relations on S.B. No. 2477

The purpose of this bill is to authorize the issuance of general obligation bonds to provide additional lanes to widen the Keaau-Pahoa Road or to establish a new corridor.

Your Committee finds that there is a need for additional lane capacity in the long range transportation planning for the Island of Hawaii.

Your Committee has amended this bill to provide for \$500,000 for the planning of the widening project.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 2477, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2477, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1825 Transportation and Intergovernmental Relations on S.B. No. 2658

The purpose of this bill is to appropriate funds for a sewerage system for Puako Beach Lots on the island of Hawaii.

Your Committee finds that there has been an increase in population in the Puako community and great stress placed on the sewerage system. Your Committee is concerned about pollution of the adjoining bay and the potential health hazards to the residents of the area.

Your Committee has amended the bill by decreasing the appropriation amount from \$1,200,000 to \$120,000 for only planning and designing, in preparation for construction, of a sewerage system for Puako Beach Lots.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 2658, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2658, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1826 Transportation and Intergovernmental Relations on S.B. No. 2982

The purpose of this bill is to appropriate funds to complete phase II of the highway lighting project on Kahekili Highway, from Ahuimanu Place to Kamehameha Highway.

Your Committee finds that proper lighting on our highways promotes public safety by increasing visibility for drivers.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 2982 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1827 Transportation and Intergovernmental Relations on S.B. No. 2997

The purpose of this bill is to appropriate funds for a master plan for Kahuku flood relief.

Your Committee finds that flooding in the Kahuku area causes widespread damage and presents potential health and safety problems.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 2997 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1828 Transportation and Intergovernmental Relations on S.B. No. 3058

The purpose of this bill is to authorize the issuance of general obligation bonds and to appropriate funds for the design and construction of drainage runoffs in the Sand Island industrial park area.

The drainage runoffs are part of the improvements to be made to Sand Island Access Road, from the sewage treatment plant to the park entrance, to correct flooding conditions caused by the highway.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 3058 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1829 Transportation and Intergovernmental Relations on S.B. No. 3061

The purpose of this bill is to appropriate funds for five new civil service support staff positions for the harbors division.

Your Committee finds that Hawaii's boating program is suffering from lack of necessary support staff.

Your Committee has amended the bill by changing the expending agency from the department of transportation to the department of land and natural resources as the boating program will be transferred to the latter department on July 1, 1992.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 3061, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3061, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1830 Transportation and Intergovernmental Relations on S.B. No. 3128

The purpose of this bill is to provide funds for the operation of the Onizuka Space Center at Keahole, Hawaii.

The funds will be used to hire a liaison resource teacher for the center.

Your Committee has amended the bill by replacing the department of transportation with the department of education as the expending agency for this bill.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 3128, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3128, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1831 Transportation and Intergovernmental Relations on S.B. No. 3141

The purpose of this bill is to appropriate funds for the plan, design, and construction of guardrails and a lookout parking lot near the critical cliff area of Rock Point located along Kamehameha V Highway on the northeastern side of the island of Molokai.

Your Committee finds that the guardrails and parking lot will assure the safety of visitors to the Rock Point cliff area.

Your Committee has amended the bill by inserting the amount of \$20,000 for the planning and design, in preparation for construction, of guardrails and a lookout parking lot at Rock Point.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 3141, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3141, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1832 Transportation and Intergovernmental Relations on S.B. No. 3225

The purpose of this bill is to appropriate funds for the planning, designing, and construction of a boat ramp on the southwestern end of Molokai at either Lono Harbor, Hale O Lono, or Hale Lena.

Your Committee finds that a small boat launching ramp on the southwestern end of Molokai would be beneficial to fishermen by allowing them easy and safe access to prime fishing grounds.

Your Committee has amended the bill by appropriating \$50,000 for the planning and design, in preparation for construction, of the boat ramp.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 3225, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3225, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1833 Transportation and Intergovernmental Relations on S.B. No. 3325

The purpose of this bill is to make an appropriation for a warning light system on school access roads.

Your Committee finds that the safety of school children necessitates the installation of warning lights on school access roads.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 3325 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1834 Transportation and Intergovernmental Relations on S.B. No. 3329

The purpose of this bill is to appropriate funds for the construction of a second left turn lane onto Kamehameha Highway at Castle Junction on Oahu.

Your Committee finds that construction of a second left turn lane onto Kamehameha Highway at Castle Junction will promote public safety by assuring better traffic flow in the area.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 3329 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1835 Transportation and Intergovernmental Relations on S.B. No. 3385

The purpose of this bill is to appropriate funds necessary to complete Moanalua Road improvements.

Your Committee finds that completion of this project will increase traffic capacity and is an integral part of the long-range transportation plan for the area.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 3385 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1836 Employment and Public Institutions on S.B. No. 1145

The purpose of this bill is to include lifeguards among those members of the Employees' Retirement System who are entitled to special retirement privileges.

Specifically, the bill provides that members with at least ten years of credited service, of which the last five were as a lifeguard, shall have their retirement allowances based on two and one-half percent of their average final compensation, rather than the normal rate of two percent applicable to other Class A or Class B members. Your Committee notes that this higher rate is currently afforded to firefighters, police officers, investigators in the departments of the prosecuting attorney and the attorney general, corrections officers, and narcotics enforcement investigators, even if they elect for early retirement. Sewer workers get the same privilege but have to put in twenty-five years, rather than ten.

The bill also places lifeguards in Class A (contributory) and requires them to make payment for (buy back) contributions not previously paid.

Your Committee finds that the special retirement provisions for specific occupations is based primarily on the personal danger or stress inherent in the job. Lifeguards meet that criteria and so should be accorded the same special retirement privileges.

Your Committee has amended this bill to conform to statutory revisions made in 1991, and by making technical changes that have no substantive effect.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of S.B. No. 1145, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1145, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Koki.

SCRep. 1837 Employment and Public Institutions on S.B. No. 2801

The purpose of this bill is to include one staff attorney for the Chief Justice of the Supreme Court and one judicial education officer as civil service exempt positions under Section 76-16(9), Hawaii Revised Statutes.

Your Committee finds that the Chief Justice should have the prerogative of choosing a staff attorney, and that a judicial educational officer is necessary to carry out important judiciary functions such as legal research, development of benchbooks, reference checklists, videotapes, and other resource tools for the Supreme Court justices.

Your Committee has amended this bill by clarifying that the judicial education officer will be assigned to the Supreme Court.

Your Committee has further amended this bill by setting forth Section 76-16 in its entirety, in conformance with recommended drafting technique, with nonsubstantive technical changes to effect the previous amendment.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of S.B. No. 2801, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2801, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Koki.

SCRep. 1838 Employment and Public Institutions on S.B. No. 2815

The purpose of this bill is to provide for reemployment of former permanent civil servants.

In such cases, the former employee would be compensated at a rate commensurate with the last salary received before leaving service, provided that the person is re-hired within three years of the separation and in the same or related class of employment. The reappointment may not be on an emergency basis, and provision is made for compensation if the previous pay grade is no longer relevant to the salary range or the former employee was not assigned a salary range step.

Your Committee finds that in the current labor market, it is difficult to attract qualified employees to public service. This bill provides an incentive for former employees to return to service, and will help the public sector compete more effectively with the private sector in recruiting qualified individuals.

Your Committee has made a few nonsubstantive technical amendments for the purposes of clarity and style.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of S.B. No. 2815, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2815, S.D. 1 and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Koki.

SCRep. 1839 Employment and Public Institutions on S.B. No. 2903

The purpose of this bill is to provide that not more than twenty percent of the wages earned by able-bodied prisoners shall be deposited to the credit of the Criminal Injuries Compensation Fund.

Currently, up to forty percent of an inmate's earnings from the Correctional Industries program may be reimbursed to the Fund for payments made by the Criminal Injuries Compensation Commission to victims of the inmate's violent crime. This bill provides that payments will automatically be made from the earnings of each inmate incarcerated for violent crimes, regardless of whether a claim has been filed for compensation.

The bill also gives the Fund statutory authority to receive these moneys.

Your Committee finds that there is always a victim of a violent crime, whether it be a person or society as a whole, and that each inmate incarcerated for a violent crime should contribute a portion of his prison earnings to compensate crime victims in general. Your Committee also finds that this bill will enable the Department of Public Safety to qualify for certification under the federal Prison Industries Enhancement Program, without which neither the Department nor its joint venture partners may engage in business in which goods and services are sold in interstate commerce or to the federal government. One requirement of the Enhancement Program is the automatic payment provision.

Your Committee has amended this bill by providing that the payments shall be made on a quarterly basis and the amount paid to the Fund shall be reported each year to the Legislature and the Criminal Injuries Compensation Commission. Your Committee has also made several nonsubstantive technical changes for the purposes of clarity and style.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of S.B. No. 2903, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2903, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Koki.

SCRep. 1840 Employment and Public Institutions on S.B. No. 2930

The purpose of this bill is to reorganize the membership of the Board of Trustees of the Employees' Retirement System to better represent the System's members and retirants.

Your Committee finds that the investment portfolio and membership of the Employees' Retirement System has grown significantly but that the number of trustees on the Board has not changed for many years. Subcommittees on the Board should be formed to focus on investment strategies and investment performance, retirement benefits, and actuarial assumptions. The subcommittees would then report their findings and recommendations to the entire Board for appropriate action.

To achieve these objectives, your Committee has amended this bill by increasing the membership of the Board from seven to eleven, with four trustees who are not public employees, five employee trustees, and one trustee who is a retirant of the System. These trustees will serve for five years. The Director of Finance continues as an ex officio member of the Board. The reorganization will begin on January 2, 1996.

Your Committee has also provided for a quorum of six members to do business, required the ERS to report to the 1994 legislature on how to make the transition smooth and efficient, and made the bill effective January 1, 1993.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of S.B. No. 2930, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2930, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Koki.

SCRep. 1841 Employment and Public Institutions on S.B. No. 2972

The purpose of this bill is to ensure that Hawaii's public school classrooms are cleaned on a regular basis.

Specifically, the bill requires the Department of Education to employ 250 civil service classroom cleaners, paid on a twelve-month basis prorated from ten months, and appropriates \$5 million for fiscal year 1992-1993 for establishment of the positions.

The bill also provides that the new employees shall receive the same benefits as Department custodians.

Your Committee finds that the State's major objectives regarding improvement of the public education system cannot be accomplished if classrooms are allowed to deteriorate due to lack of cleaning. Your Committee also finds that many classrooms in the public schools are not cleaned on a regular basis. Therefore, it is clear that new positions are needed to carry out this function.

Your Committee has amended this bill by deleting the requirement that classroom cleaners shall receive the same benefits as custodians, and by making several nonsubstantive technical changes for the purposes of style and clarity.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of S.B. No. 2972, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2972, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Koki.

SCRep. 1842 Employment and Public Institutions on S.B. No. 3131

The purpose of this bill is to appropriate \$2 million to be expended in fiscal year 1992-1993 by the County of Maui to establish a communications system, provided that the County provides matching funds on a dollar-for-dollar basis.

Your Committee finds that the three-island configuration of Maui County renders emergency communications essential. Your Committee also finds that Maui County's current system is outdated and insufficient.

Your Committee has amended this bill by clarifying that the system will have the power of 800 megahertz rather than 800 megabytes.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of S.B. No. 3131, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3131, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Koki.

SCRep. 1843 Employment and Public Institutions on S.B. No. 3371

The purpose of this bill is to establish the Statewide Sex Offender Treatment Program to ensure that the Master Plan for integrated services is successfully implemented.

The Department of Public Safety will be the lead agency, and all other agencies assigned oversight in the area of sex offenses, including the Departments of Health and Human Services, the Hawaii Paroling Authority, and the Judiciary, will establish by cooperative agreement a coordinating body to oversee development of Sex Offender Treatment Programs throughout the State.

The Programs will concentrate on implementing the Master Plan, developing uniform treatment services, establishing comprehensive demographic data on sex offenders, research, fund raising, networking, and sharing information and resources.

Your Committee finds that incarceration has little impact on sex offenders and that this Program, developed in furtherance of the objectives manifest in development of the Master Plan, is consistent with the intent of the Legislature to provide an effective and uniform statewide spectrum of treatment and research relating to sex offenders.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of S.B. No. 3371 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Koki.

SCRep. 1844 Employment and Public Institutions on S.B. No. 3375

The purpose of this bill is to provide a fourth Deputy Director in the Department of Public Safety.

The three current Deputy Directors are in charge of the Divisions of Correctional Programs and Facilities, Law Enforcement, and Administration. However, there are several functions necessary for the appropriate operation of the Department which cross divisional lines. The new Deputy Director would carry out those functions, including formulation and implementation of a comprehensive system to take corrective actions as necessary; recommend, formulate, adopt, and implement the Director's rules and directives, etc.; conduct ongoing monitoring of the Director's directive and command system; handle complaints; gather information and investigate allegations of employee misconduct; and provide comprehensive staff training.

Your Committee finds that a new Deputy Director with the above functions will enable the Department to better carry out its public mandate and reduce overall costs of providing law enforcement in the State.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of S.B. No. 3375 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Koki.

SCRep. 1845 Employment and Public Institutions on S.B. No. 3379

The purpose of this bill is to provide a mechanism by which the Director of Public Safety may directly administer money received by the State from the federal government as reimbursement for housing federal prisoners.

The funds would be under the custody of the Director of Finance and paid by vouchers to the Director of Public Safety for repair and maintenance of the State's correctional facilities. Expenditures would be limited to \$1,500,000 per fiscal year, and any additional amounts would enure to the General Fund. The Director of Public Safety, in coordination with the Director of Finance, will submit annual reports to the Governor and the Legislature on moneys received and expended. Rule-making power is provided to facilitate the purpose of the bill.

Currently, reimbursements for housing federal prisoners are automatically deposited in the General Fund. Your Committee finds that the mechanism provided in this bill will facilitate much needed repair and maintenance of correctional facilities.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of S.B. No. 3379 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Koki.

SCRep. 1846 Employment and Public Institutions on S.B. No. 3381

The purpose of this bill is to grant permanent civil service status to twelve employees of the Civil Rights Commission who have been occupying permanent civil service positions on a temporary, exempt basis.

When the Civil Rights Commission was established in 1988, it lacked the statutory authority to appoint and hire employees. In 1989, it was granted the authority to hire employees subject to Chapters 76 and 77, Hawaii Revised Statutes, and the General Appropriation Acts of 1990 and 1991 provided funding for 26 positions. However, because the positions had to be filled quickly, twelve of the persons hired to fill them were actually hired on an exempt, temporary basis. Their remuneration, provided by the General Appropriation Acts for fiscal years 1990-1991 and 1991-1992, is scheduled to expire June 30, 1992.

This bill grants full and permanent civil service status to those twelve Commission employees, thus ensuring their continued employment within the Commission and remuneration through the budget process.

Your Committee finds that the twelve employees have demonstrated the qualifications for their positions and should be granted permanent civil service status, with all the benefits and privileges appertaining thereto.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of S.B. No. 3381 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Koki.

SCRep. 1847 Employment and Public Institutions on S.B. No. 3383

The purpose of this bill is to establish a temporary coordinator position in the Department of Public Safety to provide staff support to the Sex Offender Treatment Team.

An unspecified sum is appropriated for fiscal year 1992-1993 to be expended by the Department of Public Safety to fund the position.

Your Committee finds that efforts to establish uniform and effective statewide sex offender treatment programs have been vigorously pursued for several years. A Master Plan for sex offender treatment was adopted in 1989, and the Legislature is poised to enact a statewide sex offender treatment program. In the interim, a coordinator is needed to ensure that the statewide programs are properly and successfully implemented.

Your Committee has amended this bill by specifying \$41,136 as the amount appropriated. Since the position is to be for two years, your Committee anticipates the need for another appropriation for fiscal year 1993-1994, after which the Programs should be firmly in place.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of S.B. No. 3383, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3383, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Koki.

SCRep. 1848 Health and Human Services on S.B. No. 2542

The purpose of this bill is to establish a program to prevent and remedy hunger and malnutrition in homeless children.

Your Committee finds that hunger and malnutrition among homeless children is a concern that should be addressed as part of Hawaii's outreach efforts to the homeless. Your Committee further finds that in Hawaii, only 35 per cent of the families eligible for federal food assistance participate in such programs. Testimony submitted by the Campaign to End Hunger and Homelessness in Hawaii indicates that hungry children miss twice as many school days as non-hungry children, and these children are not participating in either state-sponsored school breakfast or school lunch programs.

Your Committee has amended this bill by:

- (1) Naming the program the childhood hunger and malnutrition prevention program;
- (2) Designating this program be incorporated as a new Part of Chapter 358D, Hawaii Revised Statutes;
- (3) Providing that the program and advisory council work to solicit donations for food sources within the community;
- (4) Requiring that the program, rather than the advisory council, collect data and submit an annual report on program performance; and
- (5) Making technical amendments for clarity and style.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 2542, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2542, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Yamasaki and Koki.

SCRep. 1849 Health and Human Services on S.B. No. 2727

The purpose of this bill is to facilitate the transition of the community hospitals on Maui and Hawaii to non-profit corporate status.

Your Committee finds that the State's involvement in the administration of the community hospitals began in the 1950's and 1960's through operational subsidies to county hospitals. In 1967, hospital management functions and employees were transferred to the State. The hospitals were expected to generate enough income to support their operating costs, but over the years, state general revenue support has been increasingly necessary.

Your Committee further finds that a recent report issued by the Auditor indicates that the hospitals are plagued by serious financial problems, which have not been alleviated by the State's continuous subsidies. The Auditor reports that the community hospitals' financial problems are due, in part, to inadequate financial and operational management. Further, the Auditor indicated that certain state laws and policies exacerbate these management problems. It is the recommendation of the Auditor, that a public corporation be established to administer the hospitals and that a team headed by a special master be appointed to facilitate the transition of the administration of the hospitals to a nonprofit corporation.

Your Committee, therefore, has amended this bill by removing its substance and replacing it with language as follows:

(1) Section 2. Provides for the the governor to appoint a special master to head a transition team comprising representatives from state and county agencies, collective bargaining units, health care professionals, and community groups. The special master shall not be appointed as chief executive officer of any non-profit corporation established pursuant to this Act. The special master may hire technical staff as necessary.

The transition team must develop an effective implementation plan for the transition of the administration of the hospitals from the State to a nonprofit corporation. The plan shall include personnel and resource management, financial management, and property management; and address various issues related to these areas.

(2) Section 3. Requires the special master to submit an implementation plan and proposed legislation to the Legislature for consideration during the 1993 Regular Session. The special master and transition team members shall be available for consultation with members of the Legislature during the 1993 Regular Session.

(3) Section 4. Makes an appropriation of \$200,000 to the Office of the Governor to hire a special master and technical staff, as necessary.

(4) Section 5. Provides an effective date of July 1, 1992, for the purposes of the appropriation.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 2727, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2727, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Koki.

SCRep. 1850 Health and Human Services on S.B. No. 2889

The purpose of this bill is to amend Act 329-90, Session Laws of Hawaii, to include community-wide family activities as part of the family center demonstration project.

Your Committee finds that the family centers provide a unique and innovative approach to addressing the multiple needs of dysfunctional families. According to testimony submitted by the Department of Human Services, the family centers provide an array of services within the community including: classes in parenting, infant growth and development, and family resource management; prenatal and child care; and parent-child interaction activities. Your Committee further finds that the family centers assist in developing a sense of community through the sponsoring of family events.

Your Committee has amended this bill to include community-wide family events as a core service to be offered by the family centers; to add a repeal date of July 1, 1993; and to make technical amendments.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 2889, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2889, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Koki.

SCRep. 1851 Tourism and Recreation on S.B. No. 2882

The purpose of this bill is to amend the laws relating to Waikiki.

Your Committee has amended this short form bill by inserting substantive provisions that would:

- (1) Establish a task force committee that would research, study, explore, and assess all possible ways and means to finance and implement a Waikiki District master plan; and
- (2) Appropriate \$200,000 for the creation of the task force.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 2882, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2882, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Koki.

SCRep. 1852 Tourism and Recreation on S.B. No. 3082

The purpose of this bill is to provide that any county with a differential real property tax rate shall have thirty percent of its allocable transient accommodations tax (TAT) revenues earmarked to a special promotional fund to be used for marketing and sales to promote its hotel properties.

Your Committee heard testimony in support of this measure from the Maui Hotel Association and the Mayor of the County of Maui. Your Committee finds that the allocation of the transient accommodations tax in this manner would help to address the differential real property tax rate issue while at the same time would support and promote the viability of the visitor industry through greater marketing efforts.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 3082 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Koki.

SCRep. 1853 Tourism and Recreation on S.B. No. 3146

The purpose of this bill is to clarify the responsibilities of hotelkeepers in relation to activities on public beaches and oceans adjacent to their properties.

Your Committee heard testimony in support of this measure from the Hawaii Hotel Association, the Maui Hotel Association, and Hilton Hotels indicating their liability concerns with regard to injuries sustained on beaches and oceans adjacent to their hotel properties. Your Committee finds that hotelkeepers should not be held liable for recreational injuries of non-guests occurring in these areas.

Your Committee has amended the bill by clarifying that nothing in Chapter 486K is intended to limit a hotelkeeper's existing liability for malicious failure to prevent or warn hotel guests of self-created hazardous conditions on or in adjacent beaches and ocean waters.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 3146, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3146, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senator Koki.

SCRep. 1854 Tourism and Recreation on S.B. No. 3259

The purpose of this bill is to amend the laws relating to tourism.

Your Committee has amended this short form bill by inserting substantive provisions establishing a convention center fund to be used for the development of a world class convention center. Revenues collected from the transient accommodations tax exceeding \$90 million will be deposited annually into the convention center fund until completion of the convention center.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 3259, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3259, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Koki.

SCRep. 1855 Culture, Arts and Historic Preservation on S.B. No. 2218

The purpose of this bill is to appropriate \$272,000 for fiscal year 1992-1993 for the purchase and installation of telecommunication equipment to upgrade the signal transmission quality of Hawaii Public Television.

Your Committee received favorable testimony from the Hawaii Public Broadcasting Authority and Hawaii Public Television viewers.

Your Committee finds that one of the basic tenets of public television is that it be accessible to everyone in the State, regardless of their geographic location. Currently, Hawaii Public Television is able to reach over 95% of the State's populace.

In recent years, neighbor island viewers have complained about frequent signal loss or poor reception due to weak signal strength. Your Committee finds that these reductions in signal quality are due to the relatively old age of signal translators.

In order to remedy this situation, your Committee believes that this appropriation will result in increased signal strength and better statewide reception and service of the Hawaii Public Television Network.

Your Committee has amended the bill to include an additional \$195,000 to establish a direct microwave connection between Leeward Community College and the Hawaii Interactive Television System (HITS) and for a larger receiving antenna for better signal reception in Lahaina, Maui.

Your Committee on Culture, Arts and Historic Preservation is in accord with the intent and purpose of S.B. No. 2218, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2218, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1856 Culture, Arts and Historic Preservation on S.B. No. 2318

The purpose of this bill is to appropriate funds for the restoration of the Palace Theatre in Hilo, Hawaii.

It is the intent of this bill to facilitate the renovation of the Palace Theatre so that it may be used by the residents of Hawaii for various performing arts.

Your Committee finds that the Palace Theatre is listed on the Hawaii Register of Historic Places and that its restoration will provide Hawaii residents and visitors with a multipurpose performing arts center.

Your Committee has amended this bill to provide for reduced rates to students and senior citizens for certain events.

Your Committee on Culture, Arts and Historic Preservation is in accord with the intent and purpose of S.B. No. 2318, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2318, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1857 Culture, Arts and Historic Preservation on S.B. No. 3084

The purpose of this bill is to establish a state history center to preserve and transmit the history of Hawaii and to make this information available to all residents of the state.

It is the intent of this bill to establish a history center which shall perpetuate Hawaii's multicultural history.

Your Committee finds that there is strong support from other institutions, museums, and organizations for the establishment of a state history center. Your Committee further finds that such a center is essential to preserve the artifacts and documents of Hawaii's various cultures as educational tools for future generations.

Your Committee has amended this bill to answer concerns of its supporters. The amendments establish an eighteen member provisional state history center advisory council whose duties end upon the closing of the regular session of the 1993 legislature. The seven member board of stewards is eliminated. Your Committee has amended the bill to require that the advisory counsel shall conduct various studies and prepare a report to the legislature at least twenty days before the convening of the regular session of the 1993 session. Amendments also require that the council members confer with federal representatives to identify any joint federal-state venture which would support the purpose of the center. Your Committee also has amended the amount of revenues appropriated from \$4,300,000 to \$300,000. Technical amendments were made for proper form and style.

Your Committee on Culture, Arts and Historic Preservation is in accord with the intent and purpose of S.B. No. 3084, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3084, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1858 Culture, Arts and Historic Preservation on S.B. No. 3200

The purpose of this bill is establish the Mo'okini Heiau State Monument on the island of Hawaii and to designate the real property to be included within the boundaries of the monument.

It is the intent of this bill to designate the Mo'okini Heiau and surrounding area as a state monument so that its visual, cultural and historical aspects will be preserved as an historical site.

Your Committee finds that the United States Department of the Interior National Park Service designated the Mo'okini Heiau as a Registered National Historic Landmark, making it the first federally recognized historic site in Hawaii. Your Committee further finds that it is necessary to preserve the Mo'okini Heiau and surrounding areas from encroachment by development of the area.

Your Committee has amended this bill to change the name of the monument to Hui Na Maka o Mo'okini State Monument and to provide that the monument shall include the Mo'okini Luakini, Kamehameha birthsite, Lono Heiau, and Kane Heiau. Your Committee also amended this bill to include real property description of the area to be designated as part of the monument.

Your Committee on Culture, Arts and Historic Preservation is in accord with the intent and purpose of S.B. No. 3200, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3200, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1859 Culture, Arts and Historic Preservation on S.B. No. 3216

The purpose of this bill is to appropriate funds for an eminent domain action to acquire title to real property in the area around the Kamehameha birthsite and the Mo'okini Heiau on the island of Hawaii.

Your Committee finds that an appropriation of funds is necessary to acquire the real property to be included as part of the Hui Na Maka o Mo'okini State Monument. The real property is a culturally important historical site which should be protected from development in that area.

Your Committee has amended this bill to fill in the legal description of the property to be acquired.

Your Committee on Culture, Arts and Historic Preservation is in accord with the intent and purpose of S.B. No. 3216, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3216, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1860 (Joint) Culture, Arts and Historic Preservation and Housing and Hawaiian Programs on S.B. No. 2407

The purpose of this bill is to create a Queen Liliuokalani commission and to make an appropriation in celebration of the one hundredth anniversary of the overthrow of the Monarchy.

Your Committees find that 1993 will mark a significant milestone in the history of Hawaii and should be celebrated with dignity, respect, and sensitivity. The celebration should also be a time for public education of the significance of this event.

Your Committees have adopted the recommendation of Department of Accounting and General Services and amended the bill accordingly to change the name of the commission to the Queen Liliuokalani Commemoration Commission to be placed within the Office of Hawaiian Affairs. Other amendments were made to emphasize the public affairs and public education aspects to the celebration. An appropriation of \$500,000 was included. The provision for rule making by the Commission was deleted as this is not a proper function for a celebration commission and is not necessary for their operation.

Your Committees on Culture, Arts and Historic Preservation and Housing and Hawaiian Programs are in accord with the intent and purpose of S.B. No. 2407, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2407, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committees.

SCRep. 1861 Judiciary on S.B. No. 2209

The purpose of this bill is to (1) authorize nonprofit or for-profit organizations to conduct criminal history record checks and fingerprint searches on prospective applicants in positions that place them in close proximity to children, (2) authorize a responsible agent of a hotel to conduct record checks on prospective employees for manager, baby-sitter and security guard positions, and (3) appropriate funds to implement the bill.

Your Committee received testimony in support of the bill from the Chamber of Commerce of Hawaii, the Maui Non-Profit Executive Directors Association, Hawaii Youth Services Network, Big Brothers/Big Sisters of Honolulu, Inc, Big Brothers/Big Sisters of Maui, Inc., Hale Kipa, Inc., and private individuals.

The Department of the Attorney General supported the concept of the bill but expressed concern that new demands are being continually imposed upon the Hawaii Criminal Justice Data Center without due consideration being given as to how the Data Center will meet them. When initially established, the criminal records history check program was used primarily for law enforcement purposes. However, there has been a steady increase in the use of this information for non-criminal justice purposes, such as employment screening in the private sector. Because conviction information is a matter of public record under the Office of Information Practices Act and in light of the growing interest in this area, the Department is looking at different ways of providing this information to the public, using minimal office space and staff time.

Furthermore, the Department stated that the Data Center will be able to proceed with developing a public access program with the addition of two permanent staff and authorization to charge fees to help offset costs.

In light of information provided by the Department of the Attorney General, your Committee deleted provisions in the bill that authorizes organizations serving children and hotels to obtain access to background checks since the relevant information is a matter of public record under the Office of Information Practices Act and therefore can be obtained without additional statutory authorization. Your Committee also added an appropriation provision for two permanent positions and a section to allow the Data Center to charge a service fee, which will be deposited into the general fund, to help offset the costs for which services are provided by this bill. Your Committee believes that these amendments address the concerns of the Department as well as adhere to the intent and purpose of the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2209, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2209, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Cobb, Tungpalan and Koki.

SCRep. 1862 Judiciary on S.B. No. 2667

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

In support of the bill, the Department of the Attorney General submitted testimony, which included brief descriptions of each case. The initial request was for \$606,255.43 to satisfy nine claims. In its testimony, the Department requested an additional sum of \$670,000.00 for six cases that have been settled since the initial request and an increase of \$12,273.17 to reflect miscalculations in the amounts of two judgments. Accordingly, the total sum of the Attorney General's request is \$1,288,528.50.

Your Committee amended the bill to correct the miscalculations and to include in the total appropriation five of the six new cases. An appropriation for Interior Showplace, Inc. v. State of Hawaii, Civil No. 91-1889-06 was not included because your Committee had some reservations about to the case. Accordingly, the claims listed in the bill, as amended, total \$1,223,528.60.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2667, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2667, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Koki.

SCRep. 1863 Health and Human Services on S.B. No. 2547

The purpose of this Act is to defer the effective date of Act 335-91, Session Laws of Hawaii, to July 1, 1995.

Your Committee finds that there has been long standing interest by service providers and community advocates to resolve issues related to the delivery of services through purchase of service contracts executed under Chapter 42. Your Committee further finds that since the enactment of Act 335-91, Session Laws of Hawaii, these service providers and community advocates have continued to discuss problems and propose solutions to the myriad issues involved in the award and execution of purchase of service contracts.

Testimony submitted by the Private Sector Team, composed of various service providers, indicates that there is a need to continue discussion with the executive agencies to reach agreement on certain issues prior to the implementation of Act 335. Your Committee supports continued dialogue between the parties and suggests that agreement be reached on a system which provides: 1) coordinated planning between the executive agencies regarding services; 2) opportunity for input from service providers beginning with the planning phase through award and execution of contracts; 3) a reasonable timetable for submission of proposals and execution of contracts; and 4) sufficient resources to support the system which is adopted.

In order to facilitate this discussion, your Committee has amended this bill by changing the effective date of Act 335 from July 1, 1995 to July 1, 1993.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 2547, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2547, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Koki.

SCRep. 1864 Health and Human Services on S.B. No. 2709

The purpose of this bill is to appropriate funds for the operating expenses of the community hospitals for fiscal year 1991-1992.

Your Committee finds that the community hospital system will be unable to operate in fiscal year 1991-1992 on its present budget. Additional funds are needed to prevent reduction or discontinuation of services.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 2709 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Koki.

SCRep. 1865 Health and Human Services on S.B. No. 2723

The purpose of this bill is to extend the repeal date of the Governor's Ribbon Panel on Health Care to July 1993.

Your Committee finds that the Governor's Blue Ribbon Panel on Health Care has spent the past six months gathering information to gain an understanding of the health care system in Hawaii. Testimony submitted by the Blue Ribbon Panel indicates that the critical areas within Hawaii's health care system which need to be addressed are: escalating costs, equitable distribution of resources, and effective cost containment strategies. Your Committee further finds that the panel needs to proceed to assess the potential effectiveness of various strategies and approaches to address these areas. Therefore, your Committee agrees that the Blue Ribbon Panel should be extended for an additional year to continue their work.

Your Committee has amended this bill by:

- (1) Deleting the reference to participation by the legislative auditor, since the blue ribbon panel is an executive branch initiative which should not require the assistance of the auditor; and
- (2) Adding an appropriation of \$125,000 for the fiscal year 1992-1993 for the panel to continue its work.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 2723, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2723, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Koki.

SCRep. 1866 Health and Human Services on S.B. No. 2851

The purpose of this bill is to designate an entity independent of any state agency to serve as the State's advocacy agency for persons with developmental disabilities, so that the agency may access certain client records pursuant to federal law.

Your Committee finds that the State receives federal monies under the Developmental Disabilities Assistance and Bill of Rights Act of 1991, and The Protection and Advocacy for Individuals with Mental Illness Act, as amended. Your Committee further finds that federal law allows the State to designate a private nonprofit entity to carry out the purposes of these Acts, which in Hawaii is the Protection and Advocacy Agency of Hawaii (PA&A). Testimony submitted by the PA&A indicates that according to federal law, they must be allowed to access certain records of the clients they serve or federal funds may be in jeopardy.

Your Committee has amended this bill by:

- (1) Including a reference to federal law which require access to records;
- (2) Revising the language for the sake of proper statutory drafting without change to the meaning or substance of the bill; and
- (3) Clarified that this Act will be retroactive to cover the existing contract.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 2851, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2851, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Koki.

SCRep. 1867 Health and Human Services on S.B. No. 3292

The purpose of this bill is to establish a voluntary early education program for preschool-aged children.

Your Committee finds that there is a need to develop a statewide comprehensive system of early childhood education programs and services for children from birth to age five. Your Committee further finds that the Office of Children and Youth, within the Office of the Governor, is established to coordinate statewide policy and programs relating to the development of programs for our children.

Your Committee has amended this bill by:

- (1) Deleting its substance and establishing the Keiki 2000: Early Education and Care Program within the Office of Children and Youth. This program will develop, implement, and monitor a comprehensive system of early childhood programs and services within the State by the year 2000.
- (2) Requiring a progress report with preliminary findings and recommendations from the Office of Children and Youth twenty days prior to the convening of the 1993 Regular Session, and a final implementation plan and budget twenty days prior to the convening of the 1994 Regular Session.
- (3) Providing an effective date of July 1, 1992.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 3292, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3292, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Yamasaki and Koki.

SCRep. 1868 Health and Human Services on S.B. No. 3306

The purpose of this bill is to clarify the requirements for the release of records of persons with human immunodeficiency virus (HIV) infection, AIDS related complex (ARC), or acquired immune deficiency syndrome (AIDS).

Your Committee finds that current law permits the release of records to the Department of Health where necessary to protect the general public, provided that the patient is not identified. However, current law does not specify whether persons with whom the patient has had contact can be notified. Your Committee finds that actually notifying these contacts of the risk of having incurred the disease is in the public interest, provided that adequate privacy safeguards are in place.

It is the intent of this bill, as amended, to allow the physician to inform the Department of Health of the patient's contacts provided that the identity of the patient is not disclosed.

Your Committee has amended this bill to adopt the recommendations of the American Civil Liberties Union to assure that adequate privacy safeguards and strict procedures for disclosure are specified in the statutes.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 3306, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3306, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senator Koki.

SCRep. 1869 Health and Human Services on S.B. No. 3309

The purpose of this bill is to establish a multi-lingual case management position to provide services to non-English speaking clients in the jobs opportunities and basic skills (JOBS) training program.

Your Committee finds that the JOBS program has been successful in providing education, job training, and placement to many recipients of federal Aid to Families with Dependent Children (AFDC). Testimony submitted by Catholic Services to Families indicates that most of the immigrant and refugee AFDC recipients have not been able to participate in the JOBS program because of language barriers. Your Committee further finds that in order to provide equal access to the JOBS programs, a bilingual case manager is necessary to orient non-English speaking clients about the program.

Your Committee has amended this bill by:

- (1) Changing the position from multi-lingual to bilingual; and
- (2) Requesting an appropriation of \$30,000.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 3309, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3309, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Koki.

SCRep. 1870 Health and Human Services on S.B. No. 3310

The purpose of this bill is to create an Act 335 Task Group to replace the advisory council and agency advisory committees provided in Act 335-91, Session Laws of Hawaii.

Your Committee finds that the development of a new system for the execution of purchase of service agreements is a dynamic process and requires continuing input from government agencies, service providers, and community advocates. Testimony received by your Committee indicates that Act 335, as adopted, provides a new administrative structure for execution of contracts, but lacks a commitment to a public/private partnership to address the service needs of our community. Your Committee further finds that the implementation of Act 335-91 will be more fully realized if there is ongoing participation by an integrated group of parties interested in assuring its success.

Your Committee has amended this bill by:

- (1) Establishing a Task Group of no less than thirteen and no more than twenty-five members composed of: two members from each county, five members from designated service areas, and members at-large, as designated;
- (2) Allowing providers not satisfied with the implementation of contracts to informally meet with the deputy director and request a formal reconsideration by the director of departmental decisions relating to the contract; and
- (3) Including a new statutory section which requires prompt payment by the contracting agency to the provider.

Your Committee on Health and Human Services, is in accord with the intent and purpose of S.B. No. 3310, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3310, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Koki.

SCRep. 1871 Health and Human Services on S.B. No. 3312

The purpose of this bill is to provide outreach assistance to the Honolulu police department in dealing with the problems of the homeless.

Your Committee finds that many of the problems of the homeless are being inappropriately shouldered by the police department. A homeless outreach program would allow police officers to concentrate more on law enforcement and, at the same time, serve to connect the homeless with needed services.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 3312 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Koki.

SCRep. 1872 Health and Human Services on S.B. No. 3327

This purpose of this bill is to appropriate \$329,000 for purchase of furniture and equipment for a new wing at Kauai Veterans Memorial Hospital.

Your Committee finds that a medical/surgical wing being constructed at Kauai Veterans Memorial Hospital is near completion. Testimony submitted by the Department of Health indicates that without the proper furnishings and equipment, occupancy of the wing will not occur.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 3327 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Yamasaki and Koki.

SCRep. 1873 Planning, Land and Water Use Management on S.B. No. 2600

The purpose of this bill is to provide one and one-half additional years before jurisdiction over ocean recreation and coastal areas is transferred from the Department of Transportation to the Department of Land and Natural Resources.

Your Committee has reservations regarding the impending transfer and finds that further study and consideration is required to appropriately determine whether such undertaking is in the public interest. At present, your Committee does not wholly concur with the provisions of Act 272, Session Laws of Hawaii 1991, which provides for the transfer effective July 1, 1992, and finds that many functions that would be transferred by that Act, or that have already been transferred to the Department of Public Safety, may still be more effectively carried out by the Department of Transportation, from which they have been or are scheduled to be transferred.

In consideration of these and other reservations, doubts, and unanswered questions which your Committee finds to be critical to the implementation of Act 272 and previous transfers of Transportation Department law enforcement functions

and personnel, your Committee has amended this bill by deleting the substance and inserting the following provisions the purpose of which are to ensure that any transfer is unquestionably in the public interest and consistent with the mandates and policies established by the Legislature relating to ocean recreation and coastal areas:

- (1) Repeal of Act 272;
- (2) Establishment of a new Division of Recreation in Coastal Areas in the Department of Transportation, with jurisdiction over the Boating Special Fund and all recreational activities carried out in the coastal areas, both land and sea, of the State;
- (3) Transfer of the Marine Patrol Officers back from the Department of Public Safety to the Department of Transportation; and
- (4) A study by the Office of State Planning, in consultation with the Auditor, to determine which functions relating to ocean recreation and coastal areas currently assigned to the Department of Land and Natural Resources would be better placed with the Department of Transportation, along with related personnel; identify overlapping jurisdictions and recommend assignment to the appropriate agency; and identify positions, costs, and related resources necessary to implement the new Division in the Department of Transportation. The office shall report findings and recommendations to the 1993 Legislature.

Your Committee on Planning, Land and Water Use Management is in accord with the intent and purpose of S.B. No. 2600, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2600, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Nakasato.

SCRep. 1874 Employment and Public Institutions on S.B. No. 1072

The purpose of this bill is to allow all class A and B members of the Employees' Retirement System with at least twenty-five years of credited service, and Class C members with thirty years of credited service, to retire at any age with full benefits.

Currently, this early retirement privilege is accorded to members whose last five years of service were as a firefighter, police officer, corrections officer, investigator in the office of the Prosecuting Attorney or the Attorney General, narcotics enforcement investigator, or sewer worker. Other public employees suffer a reduction in their retirement allowances if they retire early.

The age exemptions were enacted largely because of the perilous nature of the jobs. However, since the ERS now has billions of dollars in assets and continues to grow, your Committee finds that the extra expense incurred by providing the twenty-five years-and-out privilege to all members would not jeopardize the solvency of the Trust Fund, and would in fact benefit all parties by allowing members to start enjoying retirement at a younger age while concurrently making room for new employees who would be compensated at a much lower rate.

Your Committee has amended this bill by conforming the substance of Section 88-74 to amendments made in 1991.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of S.B. No. 1072, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1072, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Yamasaki and Koki.

SCRep. 1875 Employment and Public Institutions on S.B. No. 1075

The purpose of this bill is to revise the laws relating to the use, allocation, and investment yield rate of the funds in the Employees' Retirement System.

Specifically, the bill:

- (1) Repeals the requirement that amounts contributed to the Pension Accumulation Fund shall be reduced by the amount of any investment earnings in excess of the investment yield rate set by law, and instead requires that after meeting normal costs, the Board of Trustees may use fifty percent of the excess earnings to accelerate liquidation of unfunded accrued liabilities. After all such liabilities have been funded, the balance in the Pension Accumulation Fund will be used exclusively to provide benefits to System beneficiaries;
- (2) Provides that the Expense Fund, that consists of contributions from the State and counties to administer and operate the System, shall not include amounts payable as retirement allowances and other System benefits, and that such costs shall instead be paid from investment earnings as required by the Board and approved by the Governor; and
- (3) Provides that beginning with the fiscal year ending June 30, 1992, the Board of Trustees, rather than the Legislature, shall establish the investment yield rate and other factors for actuarial valuations of the System.

Your Committee finds that the System's assets belong collectively to its members, and has amended this bill by providing that twenty-five rather than fifty per cent of the excess investment earnings shall be applied to accrued liabilities and that twenty-five percent shall be used to construct much needed long-term care facilities for beneficiaries.

Your Committee has deleted the other substantive amendments relating to the Expense Fund and the investment yield rate.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of S.B. No. 1075, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1075, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Yamasaki and Koki.

SCRep. 1876 Employment and Public Institutions on S.B. No. 1479

The purpose of this bill is to authorize the Department of Education and the University of Hawaii to purchase custodial accounts on behalf of their employees.

These institutions are already authorized to purchase annuities from insurers certified as required by Section 431:3-201, Hawaii Revised Statutes, and withhold premiums from the employee's salary. This bill deletes the requirement that the annuity must be purchased from an insurer who holds a Certificate of Authority, and adds custodial accounts purchased from an investment company as an alternative method by which the Department or the University may help their employees financially.

Your Committee finds that custodial accounts would be a credible and effective way to help an employee accumulate savings. However, your Committee is concerned that deleting the insurer's Certificate of Authority removes an annuity from the protection and regulation provided by the Department of Commerce and Consumer Affairs.

Therefore, your Committee has amended this bill by restoring the requirement that an annuity must be purchased from an insurer holding a Certificate of Authority. In addition, your Committee has provided that a custodial account must be approved by the Commissioner of Securities, in order to provide the regulation necessary to protect the employee's investment.

Additionally, your Committee has corrected a citation from the Insurance Code and made numerous nonsubstantive technical amendments for the purposes of clarity and style.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of S.B. No. 1479, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1479, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Yamasaki and Koki.

SCRep. 1877 Employment and Public Institutions on S.B. No. 2596

The purpose of this bill is to provide that an employee who prevails in a civil action relating to a noncompetition agreement shall be awarded reasonable attorneys' fees, costs of the suit, and an unspecified civil penalty.

A noncompetition agreement is a provision relating to restraint on competition agreed upon by the employer and the employee. Examples include agreements that the employee will not: (1) accept other employment or acquire interest in a competing business during the employment relationship; (2) compete with the employer or work for a competing company for a reasonable period after the employment relationship is terminated; or (3) disclose trade secrets. A noncompetition agreement is not limited to these provisions, and is often used by an employer as the basis of a civil action against a current or former employee.

Your Committee finds that this bill will restrain employers from filing frivolous suits against present or former employees.

Your Committee, however, believes that awarding attorneys' fees and court costs to the prevailing employee provides sufficient deterrence, and has therefore deleted the civil penalty. Your Committee has also made several nonsubstantive technical changes for the purposes of clarity and style.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of S.B. No. 2596, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2596, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Yamasaki and Koki.

SCRep. 1878 Employment and Public Institutions on S.B. No. 2926

The purpose of this bill is to confer permanent civil service status upon all temporary or exempt state employees who are members of a collective bargaining unit and have been employed in the same position for at least five consecutive years without a contract.

Your Committee finds that there are many state employees who have been providing quality services for the State on a temporary or exempt basis for many years without the protection or benefits of chapters 76 and 77. Those who have been working at the same job for at least five consecutive years have clearly demonstrated their qualifications for the position and should be afforded civil service status with all the benefits and privileges appertaining thereto.

Your Committee has amended this bill by providing that an employee included under collective bargaining who subsequently occupies a white-collar excluded position shall not be accorded a pay increase because of the change in status

if the salary range for the new position is comparable or equivalent to the former salary range. However, the person shall not suffer a reduction in pay either.

Your Committee has also amended this bill by deleting Section 1 (findings and purpose) and by making nonsubstantive technical changes for the purposes of clarity and style.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of S.B. No. 2926, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2926, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Yamasaki and Koki.

SCRep. 1879 Employment and Public Institutions on S.B. No. 3376

The purpose of this bill is to include public employee salary ranges and requirements therefor, as well as classification and reclassification, as negotiable items under the Collective Bargaining Law.

Collective Bargaining was enacted for public employment effective July 1, 1970 and specifically excluded the salary ranges and job classifications and reclassifications as negotiable items rendering them the sole prerogative of the employer. This bill would obviate that policy and leave those crucial items contingent upon agreement between the employer and the exclusive representatives of the bargaining units established for public officers and employees.

Your Committee is reluctant to reverse a long-standing policy which has for the most part benefited public employers and employees alike. However, your Committee finds that the salary ranges and classifications for public school teachers are antiquated and require more adjustment than the State appears willing to make. Therefore, your Committee has amended this bill by providing that salary ranges, requirements to enter or modify those ranges, and classification and reclassification shall be negotiable items between bargaining unit (5) and the State.

Your Committee has also deleted Section 1 of this bill, which contained several factual errors as findings, and made some technical changes that have no substantive effect.

Your Committee acknowledges that the majority of opinion is against this bill, but considers the plight of our public school teachers a matter of compelling public interest. In order to resolve the many issues that have continued to retard efforts of both teachers and management to achieve a more harmonious and rewarding relationship, your Committee recommends that the exclusive representative for bargaining unit (5) and the Superintendent of Education initiate a dialogue with the Director of Personnel Services, the Chairperson of the Hawaii Labor Relations Board, and appropriate representatives from the University of Hawaii and the Judiciary to clarify and resolve those issues, especially as they pertain to compensation and classification.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of S.B. No. 3376, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3376, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Yamasaki and Koki.

SCRep. 1880 Employment and Public Institutions on S.B. No. 3382

The purpose of this bill is to provide that persons currently employed by the Department of Public Safety (DPS) who previously held the titles of Sheriff or Deputy Sheriff pursuant to Chapter 601, Hawaii Revised Statutes, shall retain those titles and be classified as such in the Department's final organization plan.

The DPS was created to consolidate all state law enforcement functions under one department. Thus, employees in several state agencies, as well as the Judiciary, were transferred to the DPS. However, under the working draft of the DPS organization plan, Sheriffs and Deputy Sheriffs formerly under the jurisdiction of the Judiciary, are tentatively classified as Public Safety Officers or State Law Enforcement Officers assigned to the Special Services Division under the Deputy Director for Law Enforcement. Since they retain their previous functions, and the DPS organization plan has not been finalized, your Committee finds it appropriate for these individuals to retain their previous titles.

Your Committee notes that this bill applies only to current employees who formerly held the titles of Sheriff or Deputy Sheriff, and authorizes the reclassification of such positions as they are vacated.

Your Committee also wishes to point out that the titles of "Sheriff" and "Deputy Sheriff" connote a person's status and stature in the community, just as do the titles "Senator," "Representative," or "Governor." To be stripped of the title implies loss of status and even public censure. Even though that is not really the case, much of the community will think of it that way. Your Committee would never have considered retracting Duke Kahanamoku's "Honorary Sheriff" title, and for the same reason finds that to strip the Sheriff or his deputies of their titles would have a very detrimental and inappropriate effect on the quality of life they had earned in those capacities with the Judiciary.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of S.B. No. 3382 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Yamasaki and Koki.

SCRep. 1881 Housing and Hawaiian Programs on S.B. No. 2485

The purpose of this bill is to ensure that the Office of Hawaiian Affairs (OHA) realizes income from lands in the Public Land Trust conveyed by the Department of Land and Natural Resources (DLNR) to the Housing Finance and Development Corporation (HFDC) for master planned community development.

Section 10-13.5, Hawaii Revised Statutes, provides that twenty percent of the proceeds derived from the Public Land Trust shall be expended by OHA for the betterment of the conditions of native Hawaiians.

This bill provides that in cases of transfers of Public Land Trust property from DLNR to HFDC, OHA shall be entitled to twenty percent of the fair market value of the land as determined by three disinterested appraisers, plus an additional five percent compounded annually to the date OHA receives its entitlement. OHA will also receive twenty percent of the revenues received by HFDC for commercial use of the property, but not until HFDC recovers the amount already paid to OHA for the land under commercial use and only from revenues remaining after HFDC has met its annual debt service on bond obligations for the land.

Your Committee finds that it was the intent of the Legislature, in enacting the OHA and Public Land Trust provisions, to provide OHA with substantial revenues from transactions involving the Trust. This bill is consistent with that intent in that it provides a means to determine the amount of compensation due and owing to OHA.

Your Committee finds that these transactions are likely to occur in pursuit of State objectives relating to housing, and that public policy would be obviated unless OHA is compensated fairly. This bill provides one means of prohibiting the State from circumventing legislative intent.

Your Committee has made amendments to the bill to change the number of appraisers who shall determine the fair market value of the lands from three to two and to provide that if the two appraisers are unable to determine the value, then a mutually acceptable appraiser shall determine the value. Arbitration to determine the value is deleted and moneys derived from the development of housing projects as defined under Section 201E-2 is added to the definitions in Section 10-2. The bill has been amended to establish that OHA shall receive twenty percent of any revenue received by the Housing Finance and Development Corporation upon a sale of the land used for commercial purposes. Your Committee has made technical amendments to the bill for the purposes of clarity and style which do not affect the substance of the bill.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of S.B. No. 2485, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2485, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators McCartney and Nakasato.

SCRep. 1882 Housing and Hawaiian Programs on S.B. No. 2638

The purpose of this bill is to ensure that the Department of Hawaiian Homes Lands receives compensation from the transfer of former sugarcane lands as set forth in Article XII, Section 1 of the Hawaii Constitution. It is the purpose of this bill to establish a formula by which the department receives its entitlements where the Housing Finance and Development Corporation purchases land from the Department of Land and Natural Resources for a master planned community and also receives revenues from such land used for commercial purposes.

It is the intent of this bill to clarify the amount of proceeds to which the Department of Hawaiian Homes Lands is entitled upon the transfer of sugarcane lands and to clarify that the department is entitled to revenues from the commercial use of those lands.

Your Committee finds that it was the intent of Article XII, Section 1 of the Hawaii Constitution to provide the Department of Hawaiian Homes Lands with substantial revenues upon the transfer of former sugarcane lands. This bill is consistent with that intent in that it provides a means to calculate of the amount of compensation due to Department of Hawaiian Homes Lands upon such transfer.

Your Committee has amended the bill by designating it as an amendment to Chapter 171 on public lands, instead of an amendment to the Hawaiian Homes Act. Amendments have been made to change the number of appraisers who shall determine the fair market value of the lands from three to two and to provide that a mutually acceptable third appraiser shall determine the fair market value if the first two are not able to determine value. The bill has been further amended to provide that upon a sale of land used for non-residential purposes, the department shall be entitled to thirty percent of the revenue received by the Housing Finance and Development Corporation. Your Committee has also made nonsubstantive technical amendments for the purposes of clarity and style.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of S.B. No. 2638, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2638, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators McCartney and Nakasato.

SCRep. 1883 (Joint) Housing and Hawaiian Programs and Planning, Land and Water Use Management on S.B. No. 2855

The purpose of this bill is to appropriate \$49,250,000 for fiscal year 1992-1993 for the purposes of compensating the Hawaiian Home Lands (HHL) Trust for the State's past mismanagement of the HHL Trust.

Your Committees received supporting testimony from the Department of Hawaiian Home Lands (DHHL), the Office of State Planning, and the Office of Hawaiian Affairs.

Your Committees find that the bill provides the HHL Trust with compensation for the State's past wrongful, improper or unauthorized withdrawals, transfers, takings or, uses of Hawaiian Home Lands which occurred from August 21, 1959 to the present.

Your Committees find that, in addition to back rent for the use of Hawaiian home lands for public purpose, there should be further compensation for the opportunity lost by the Commission in generating, using, and leveraging revenue from the land. In this regard, inasmuch as the primary mission of the Act is for homesteading purposes, your Committees recommend that the interest rate on compensation owed be set at the prevailing residential mortgage rate.

Furthermore, your Committees believe that the bill is a significant piece of legislation which marks the end, and the beginning of a long and arduous process over past compensation due to breaches of trust by the State and the federal governments.

Your Committees have amended the bill to:

Specify the parcels of Hawaiian Home Lands which the State may retain use of;

Specify the parcels of public lands that DHHL may receive as a part of a land exchange agreement; and

Authorize the State to pursue action against the federal government for its breaches of trust against the HHL Trust.

Your Committees have made other technical, nonsubstantive amendments for the purposes of clarity and style.

Your Committees on Housing and Hawaiian Programs and Planning, Land and Water Use Management are in accord with the intent and purpose of S.B. No. 2855, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2855, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committees except Senators Hagino, Ikeda and Iwase.

SCRep. 1884 Housing and Hawaiian Programs on S.B. No. 3247

The purpose of this bill is to appropriate funds to enable the Hana Affordable Housing and Community Development Corporation to design and construct site improvements and infrastructure for a self-help affordable housing subdivision on land donated by Hana ranch.

Specifically, \$150,000 is appropriated for the Hana Affordable Housing and Community Development Corporation's administrative costs relating to the project, and \$2,000,000 is appropriated for design and construction of site improvements and infrastructure for the self-help housing subdivision.

Hana is the most economically depressed area of Maui where personal income is lowest and housing costs are highest. Self-help housing development is an established, cost-efficient, and practical means of providing affordable housing that your Committee finds to be appropriate to the housing needs of Hana residents, especially since land has been donated by Hana Ranch for that purpose.

Your Committee further finds that the Hana Affordable Housing and Community Development Corporation is a nonprofit corporation that has the capability of developing a self-help affordable housing subdivision in Hana, and that these appropriations are consistent with public policies relating to development of affordable housing.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of S.B. No. 3247, S.D. 1, and recommends that it be referred to Committee on Ways and Means.

Signed by all members of the Committee except Senators McCartney and Nakasato.

SCRep. 1885 Housing and Hawaiian Programs on S.B. No. 3486

The purpose of this bill is to recognize and support the right of the Hawaiian people as the indigenous people of the state to sovereignty and self-determination. The bill also petitions the United States Congress to recognize and assist a sovereign Hawaiian government and to establish the federal trust obligation to the Hawaiian people.

It is the intent of this bill to acknowledge the history and consequences of the overthrow of the monarchy of Hawaii in 1893 and the subsequent annexation of the islands to the United States. This bill intends to address the injustices suffered by the native Hawaiian and Hawaiians as result of these events which occurred without their consent.

Your Committee finds that the monarchy of Hawaii was illegally overthrown 1893 and that the rights of the Hawaiians as indigenous people were ignored and extinguished. Although the Hawaiians never directly relinquished their claims to lands ceded to the United States upon annexation, they effectively lost the land base so vital to their culture and way of life. The federal government did not abide by its trust responsibilities in caring for the ceded lands. The federal government also failed to carry out its fiduciary duties imposed by the Hawaiian Homes Commission Act of 1921. More than sixty per cent of Hawaiian homes lands have been assigned to non-indigenous parties. As a consequence, many eligible native Hawaiian beneficiaries have remained on a waiting list for many years for their home lands award. The Hawaiian people never waived their right to sovereignty and self-determination. Your Committee finds that the time is ripe for Hawaiian sovereignty.

Your Committee has adopted the recommendations of the Office of Hawaiian Affairs in amending this bill. This Committee recognizes that the Office of Hawaiian Affairs is a duly elected body which represents all indigenous Hawaiian

people and, accordingly, its recommendations were given due respect. This bill was amended to provide for a native Hawaiian convention in 1994 which shall address self-governance. The bill also was amended to appropriate funds for that convention. The section which called upon Hawaii's citizens to petition Congress to recognize a sovereign government and establish a federal trust obligation to Hawaiians was deleted and replaced with the above-discussed amendment provided by the Office of Hawaiian Affairs.

Because of time constraints, your Committee was unable to have an extensive discussion on this bill or its proposed amendments. Your Committee hopes that the Committee on Judiciary will give this bill as amended its close attention and provide time for a full and clear discussion by its supporters.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of S.B. No. 3486, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3486, S.D. 1, and be referred to the Committees on Ways and Means and Judiciary.

Signed by all members of the Committee except Senators McCartney and Nakasato.

SCRep. 1886 Transportation and Intergovernmental Relations on S.B. No. 2265

The purpose of this bill is to make an appropriation for the planning and acquisition of land for the Keaau-Pahoia road highway expansion project.

Your Committee finds that the funds will permit the incremental construction for the widening of the road from Keaau Town towards Puna.

Your Committee has amended this bill to provide that the funds are for the design and right-of-way acquisition for the road, and to provide one million one hundred thousand dollars for the project.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 2265, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2265, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Yamasaki.

SCRep. 1887 Transportation and Intergovernmental Relations on S.B. No. 2459

The purpose of this bill is to provide funds to remedy the subsurface contamination of the Wailoa River state recreation area by petroleum products.

Your Committee finds that a remedy for the subsurface is necessary to allow residents to use the park as an environmentally safe area. Your Committee notes that currently, however, there are underground deposits of petroleum which must be removed.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 2459 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Yamasaki.

SCRep. 1888 Transportation and Intergovernmental Relations on S.B. No. 2659

The purpose of this bill is to provide funds to construct improvements for Kawaihae Harbor, County of Hawaii.

Your Committee finds that there is strong community support for the construction of a ninety-slip small harbor. The anticipated improvements will meet the needs of the growing community. Your Committee recognizes that there is significant construction in the area and the proposed small harbor construction will serve the needs of the community.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 2659 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Nakasato and Yamasaki.

SCRep. 1889 Transportation and Intergovernmental Relations on S.B. No. 2907

The purpose of this bill is to amend provisions of the county general excise tax surcharge (1) to clarify that the surcharge applies to the gross proceeds of contracts entered into before June 19, 1990, when the contracts are renegotiated, renewed, or extended after that date; (2) to provide for the assignment of the surcharge to taxation districts in accordance with rules adopted by the department of taxation; and (3) to add penalties for the failure to file with tax returns a schedule correctly assigning the surcharge paid to taxation districts.

Your Committee finds that this bill will clarify language of the original enactment pertaining to the surcharge on contracts and other business transactions.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 2907 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Nakasato and Yamasaki.

SCRep. 1890 Transportation and Intergovernmental Relations on S.B. No. 3057

The purpose of this bill is to appropriate \$100,000 for land acquisition, planning, and construction for park and ride facilities in Kailua, Oahu.

Your Committee finds that park and ride facilities are a vital component of the City and County of Honolulu's rapid transit system. Your Committee further finds that the City's plan for park and ride facilities calls for the incremental implementation of these facilities. Testimony submitted by the City and County of Honolulu indicates that this appropriation will be matched by City funds.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 3057 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Nakasato and Yamasaki.

SCRep. 1891 Transportation and Intergovernmental Relations on S.B. No. 3140

The purpose of this bill is to make an appropriation for construction of a bridge over the Kaunakakai Stream in Molokai.

Your Committee finds that the bridge would provide for a crossing over the stream which becomes impassable during heavy rains.

Your Committee has amended this bill to provide for \$100,000 for the cost of dredging and clearing the stream in preparation for construction of the bridge, and to provide that the expending agency be the Department of Transportation.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 3140, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3140, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Yamasaki.

SCRep. 1892 Agriculture and Environmental Protection on S.B. No. 2311

The purpose of this bill is to appropriate \$177,000 to establish a laboratory and reference source facility in the State to study microbial and viral diseases of lower aquatic animals.

Your Committee received testimony in support of the bill from the Department of Land and Natural Resources (DLNR) and the University of Hawaii.

Your Committee finds that such a facility would:

- Provide diagnostic and research services not currently available in the State;
- Organize and establish undergraduate and graduate training programs; and
- Organize workshops for continuing education and practical training.

Furthermore, the existence of such a facility would assist the State's aquaculture industry in finding ways to detect and prevent infectious bacterial and viral diseases from destroying economically important lower aquatic animal crops.

Your Committee has amended the bill by making the University of Hawaii the sole expending agency to ensure a more efficient handling of the appropriation.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of S.B. No. 2311, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2311, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1893 (Majority) Agriculture and Environmental Protection on S.B. No. 2606

The purpose of this bill is to authorize and appropriate \$30,000 in general obligation bond funds in fiscal year 1992-1993 for planning livestock facilities on Oahu, including slaughterhouse, rendering plant, holding pen, and packing and processing facilities. The bill provides that the funds shall be expended by the Department of Agriculture and shall not lapse until June 30, 1995.

Your Committee heard testimony in support of the bill from the Department of Agriculture, Kahua Meat Company, Ltd., and Hawaii Cattlemen's Council, Inc.

Your Committee has amended the bill by adding marshalling yards to the list of livestock facilities and providing that the relocation of livestock facilities shall be included as one of the purposes of the appropriation.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of S.B. No. 2606, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2606, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.
Senator Reed did not concur.

SCRep. 1894 Agriculture and Environmental Protection on S.B. No. 2651

The purpose of this bill is to provide a means of disposing of spent glass in an environmentally acceptable manner by requiring that a minimum of two percent crushed glass be used as an aggregate in the asphalt mix in all State road construction and paving projects.

Your Committee finds that current glass recycling programs have been unsuccessful because of the limited market for recycled glass in Hawaii. Hence, those wishing to recycle glass must pay shipping costs to the mainland which can exceed the value of the end product.

Your Committee further finds that, by using crushed glass as an aggregate in the asphalt mix used for road construction and paving, Hawaii could conserve limited landfill space while at the same time saving substantial public dollars. Demonstration projects in Hawaii as well as in other states have established the feasibility of such a program.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of S.B. No. 2651 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1895 Agriculture and Environmental Protection on S.B. No. 3180

The purpose of this bill is to extend the repeal date of Act 293, Session Laws of Hawaii 1991, pertaining to the establishment of a Department of Environmental Protection, from July 1, 1992 to July 1, 1993.

Your Committee received testimony in support of the bill from the Department of Health and the Office of State Planning. Both stated that the concept of establishing a Department of Environmental Protection is in the public interest and should be pursued.

Your Committee finds that while the provisions of Act 293 are to be repealed as of June 30, 1992, many important issues require additional time so that they may be fully considered and developed. This bill would permit this to occur and would also allow time for appropriate planning and consensus building among the affected parties.

Your Committee has amended the bill by amending Act 293 to provide for an appropriation which would allow the Office of the Governor to hire the staff necessary to accomplish the purposes of the Act.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of S.B. No. 3180, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3180, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1896 Agriculture and Environmental Protection on S.B. No. 3315

The purpose of this bill is to appropriate \$120,418 for fiscal year 1992-1993 to implement the State Nonpoint Source Pollution Program.

Your Committee finds that nonpoint source pollution is a major source of pollution in the State. Diffuse sources of nonpoint source pollution include sediment, urban runoff, nutrients, and pesticides.

Further, your Committee finds that water quality is important to the State's ecosystems, living standards, and economy. Residents and visitors alike depend on clean ocean and stream waters for recreational activities. This appropriation is certainly consistent with State efforts to preserve the quality of our environment for future generations and should be supported.

Your Committee has amended the bill by adding a findings and purpose section to the bill and by clarifying that the appropriated amount will be used for funding two permanent Planner V positions and other program related expenses.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of S.B. No. 3315, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3315, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1897 Agriculture and Environmental Protection on S.B. No. 3331

The purpose of this bill is to have the Bishop Museum conduct a biological survey that will involve an ongoing natural history inventory of the Hawaiian Archipelago to locate, identify, evaluate, and maintain the reference collections of all species of flora and fauna within the State.

Your Committee received testimony in support of the bill from the Department of Land and Natural Resources and the Bishop Museum.

Your Committee finds that there is a current effort throughout the United States to create a national biological survey. However, such a survey would focus primarily on the ecosystems of mainland states. The Hawaiian Archipelago is extremely diverse and full of fragile ecosystems which evolved in isolation. By having the Bishop Museum conduct a state biological survey, the State will be able to gain a head start on the national biological survey, attract federal and outside foundation funding, and bring national recognition to the efforts of the museum.

Your Committee has amended the bill by adding language requiring that the Nature Conservancy of Hawaii be included in developing the biological survey.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of S.B. No. 3331, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3331, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1898 Agriculture and Environmental Protection on S.B. No. 3391

The purpose of this bill is to establish an income tax credit for taxpayers who purchase a chlorofluorocarbon (CFC) recovery unit.

Your Committee received favorable testimony from the Hawaii Automotive and Retail Gasoline Dealers Association.

The bill provides an income tax credit of twenty percent of the total cost of the purchase and installation of a CFC recovery unit, up to an unspecified amount.

Your Committee finds that the measure will encourage the use of these CFC recovery units, thereby promoting a more environmentally conscious handling of this ozone depleting substance.

Your Committee has amended the bill by inserting the amount of \$5,000 as the maximum credit and by making technical, nonsubstantive amendments for the purposes of clarity and style.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of S.B. No. 3391, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3391, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1899 Transportation and Intergovernmental Relations on S.B. No. 2458

The purpose of this bill is to appropriate funds for capital improvement projects for the county of Hawaii.

Your Committee has amended the bill by deleting the following four capital improvement projects from the bill: the administration building of the fire department, phase III of the public safety building, the Ka'u police station, and the Komohana/Kawailani traffic signal. The deletion of the four projects decreases the total amount of the appropriation from \$17,643,400 to \$6,575,000.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 2458, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2458, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Nakasato and Yamasaki.

SCRep. 1900 Transportation and Intergovernmental Relations on S.B. No. 2631

The purpose of this bill is to authorize the issuance of general obligation bonds and appropriate funds for various capital improvement projects for the county of Kauai.

Your Committee has amended as bill as follows:

Deleted Hauaala Road drainage improvements because of pending litigation;

Deleted Kauai civic center plans, design, and construction;

Made receipt of funds for Halehaka landfill closure contingent on the county of Kauai providing \$400,000 for the project;

Decreased the amount for Antone K. Vidinha stadium complex from \$1,950,000 to \$195,000 to reflect deletion of land acquisition and construction from the project;

Made receipt of funds for the Koloa refuse transfer station contingent on matching funds from the county of Kauai; and

Decreased the amount for improvements and expansion of the salt pond park from \$330,000 to \$250,000.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 2631, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2631, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Nakasato and Yamasaki.

SCRep. 1901 Transportation and Intergovernmental Relations on S.B. No. 3059

The purpose of this bill is to broaden the definition of cooler beverage to include spirit coolers.

The bill seeks to address an inequity in the present taxing of alcoholic beverages falling within the definition of cooler beverage.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 3059 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Nakasato and Yamasaki.

SCRep. 1902 Agriculture and Environmental Protection on S.B. No. 2211

The purpose of this bill is to appropriate funds for the Department of Health to research, develop, and test new state-of-the-art technologies for monitoring coastal water quality.

Your Committee received supporting testimony from the Department of Health and the University of Hawaii.

Your Committee finds that the funds requested under the bill would be used to develop new testing methods which would be better suited for monitoring Hawaii's tropical coastal waters.

Your Committee has amended the bill by adding that the monitoring include the indexing of ciguatera and non-ciguatera toxin levels in the State's coastal waters.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of S.B. No. 2211, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2211, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Solomon.

SCRep. 1903 Agriculture and Environmental Protection on S.B. No. 2472

Your Committee heard testimony from both the Department of Health and the Department of Defense suggesting that the emergency environmental response function would more appropriately remain with the Department of Health.

Your Committee also heard testimony concerning the importance of effective, timely responses to environmental emergencies.

In order to increase the effectiveness of emergency environmental responses, your Committee has amended the bill by deleting the contents of the bill and substituting provisions which allow the director of the Department of Health to hire a hydrogeologist and a toxicologist without regard to Chapters 76 and 77 of the Hawaii Revised Statutes for the purpose of carrying out these functions.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of S.B. No. 2472, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2472, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1904 Agriculture and Environmental Protection on S.B. No. 2259

The purpose of this bill is to strengthen the penalties for the illegal importation of prohibited or restricted plants or animals into the State.

Specifically, the bill amends the penalty section of Chapter 150A, Hawaii Revised Statutes (HRS), pertaining to plant and non-domestic animal quarantine, so that all violations of the chapter and rules adopted thereunder, except those dealing with the plants and animals declaration form, would be misdemeanors punishable by a minimum jail sentence of forty-eight hours. A conviction within five years of a previous conviction would be a class C felony. Additionally, any person or organization that is required by the courts to pay control costs for an escaped or established pest would be assessed an additional \$15,000 in civil penalties.

Your Committee heard supporting testimony on the bill from the Department of Agriculture and the Hawaii Office of the National Audubon Society indicating that:

- (1) Large numbers of illegal animals have been confiscated and found in Hawaii in recent years, including 22 snakes in 1991; and
- (2) There is need for stricter penalties to discourage the illegal importation of prohibited and restricted animals into the State.

Upon further consideration, your Committee has amended the bill to delete reference to the prohibited and restricted species lists. Your Committee has also deleted the mandatory forty-eight hour jail sentence and the class C felony classification for second offenses in favor of higher minimum and maximum fines for first and subsequent offenses. Your Committee believes that mandatory jail sentences and the felony classification will prevent the use of bail forfeiture, a method which has been successful in expeditiously disposing of these cases.

Your Committee also amended the bill by deleting Section 150A-14(d), HRS, as superfluous in light of amendments made to subsection (c).

Finally, your committee believes that the criminal penalties provided by this bill are adequate to deter violations of Chapter 150A and has therefore deleted the civil penalty provision.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of S.B. No. 2259, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2259, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Ikeda and Levin.

SCRep. 1905 (Majority) Agriculture and Environmental Protection on S.B. No. 2508

The purpose of this bill is to appropriate \$400,000 for fiscal year 1992-1993 to promote agricultural awareness in the State.

Your Committee received testimony in support of the bill from the Kahua Meat Company, Ltd.

Your Committee finds that the sum appropriated would be used for the promotion and distribution of agriculturally related information to the public for the purpose of raising additional funds to promote further agricultural awareness.

Your Committee has amended the bill by: changing the amount appropriated from \$400,000 to \$1; clarifying that the sum appropriated is to be expended in conjunction with the formulation of a strategic plan; and changing the expending agency from the Governor's Agriculture Coordinating Committee to the Department of Agriculture.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of S.B. No. 2508, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2508, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Ikeda and Levin.
Senator Reed did not concur.

SCRep. 1906 Agriculture and Environmental Protection on S.B. No. 2603

The purpose of this bill is to stimulate agricultural business growth in the State.

Your Committee heard testimony in support of this bill from the Department of Business, Economic Development and Tourism, the Koolau Agricultural Co., Ltd., and the Hawaii Farm Bureau Federation.

Your Committee finds that if enacted, the bill would foster the revitalization of the rural economy in our State by means of regulatory flexibility and tax incentives. Agricultural businesses would be granted tax incentives which are identical to those offered to eligible businesses participating in the State's already existing, but not yet operational, Enterprise Zones (EZ) Program. The primary difference is that the EZ Program is limited to designated areas, while this bill would include agricultural activities wherever they are located.

Your Committee has amended the bill by deleting Sections 1 through 4 in their entirety, and substituting an amendment to the definition of "qualified business" contained in Section 209E-2, Hawaii Revised Statutes, which reads as follows:

"(2) Engaged in manufacturing, the wholesale sale of tangible personal property, produced as defined in chapter 237, or a service business or calling..."

Your Committee believes that this amendment would accomplish the purpose intended, but in a simpler manner.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of S.B. No. 2603, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2603, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Ikeda and Levin.

SCRep. 1907 Agriculture and Environmental Protection on S.B. No. 2666

The purpose of this bill is to add a new section to Chapter 150A, Hawaii Revised Statutes, pertaining to plant and non-domestic animal quarantine, to allow search warrants to be obtained by the Department of Agriculture to capture or confiscate prohibited or restricted plants and animals on private property.

Your Committee heard supporting testimony on the bill from the Department of Agriculture, the Hawaii Office of the National Audubon Society, and the Hawaiian Sugar Planters Association.

The testimony indicated that:

- (1) Even though 157 illegal animals were seized or voluntarily turned in last year, these animals may represent just the tip of the iceberg.
- (2) The agricultural community had concerns about the establishment of potential crop pests and the introduction and establishment of general predatory animals such as snakes, large cat-type animals and other reptiles that have been found or turned in by people living in the State.
- (3) Without the authority proposed by this bill, no search can be made without the approval of the owner thus allowing future illegal importations and harborings to occur.

Upon further consideration, your Committee has amended the bill to apply penalties to all prohibited animals and microorganisms, not just those on the lists required by statute.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of S.B. No. 2666, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2666, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Ikeda and Levin.

SCRep. 1908 Agriculture and Environmental Protection on S.B. No. 2717

The purpose of this bill is to amend state laws relating to underground storage tanks to bring them into compliance with federal requirements.

Your Committee heard testimony in support of this measure from the Department of Health, the Environmental Center of the University of Hawaii, and the Department of Business, Economic Development and Tourism.

Your Committee finds that the original state underground storage tank laws were enacted in 1986 and, since then, new federal regulations regarding underground storage tanks have been enacted. Hence, the proposed amendments to the existing statutes are necessary to ensure consistency, clarity, and enforceability for the purpose of securing authorization from the federal Environmental Protection Agency.

Your Committee further finds that the bill would extend the Underground Storage Tank Loan Fund for an additional year which would help small businesses bring their tanks up to insurance standards.

Your Committee has amended the bill by deleting the proposed amendment to the definition of "operator", by changing the proposed amendment to the definition of "owner" in section 2, by changing the existing deadlines from May 6, 1986 to April 30, 1992, and making other technical, nonsubstantive amendments.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of S.B. No. 2717, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2717, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Solomon.

SCRep. 1909 Agriculture and Environmental Protection on S.B. No. 2719

The purpose of this bill is to provide mechanisms to meet the federal requirements contained in the Clean Air Act, 42 U.S.C. §§7401 to 7671q, particularly in light of the amendments of 1990. The bill also enables the Department of Health to regulate the "emission of pollutants" rather than "pollution".

Specifically, the bill:

1. Establishes a permit program based on federal requirements which would be run solely on the fees collected by specified sources of pollution;
2. Requires that these sources pay fees in relation to the amount of pollutants emitted;
3. Provides criminal penalties for knowing violations;
4. Provides monitoring and recordkeeping requirements for sources;
5. Provides for judicial review for specified persons;
6. Establishes a clean air special fund;
7. Expands enforcement provisions;
8. Revises penalty provisions generally; and
9. Establishes a small business assistance program, a compliance advisory council, and a small business ombudsman for air pollution control.

Each of these provisions includes specific requirements and provides general guidelines for further rulemaking.

The federal legislation requires the State to implement a program which meets the requirements of the Clean Air Act. If the State fails to do so within strict time limitations, it may lose highway funding and, moreover, the Environmental Protection Agency may then establish and run its own program for the State.

Upon further consideration, your Committee has amended this bill to provide the Department of Health with the essential authority necessary to implement full compliance with the federal requirements. The 1990 amendments to the federal Clean Air Act required the Environmental Protection Agency to issue final regulations by November 15, 1991. However, these final regulations have not yet been published. Based on the current unavailability of the regulations and the fact that the State is operating under a strict time frame, your Committee finds it necessary and appropriate to leave the details of compliance to the Department of Health through its rule making function, and to retain within the bill only those essential provisions capable of incorporation into the statutes at the present time. As amended, the bill includes the following:

1. Establishment of a small business assistance program;
2. Criminal penalties for knowing violations;
3. Establishment of a small business ombudsman for air pollution control;
4. Provisions for judicial review by specified persons;
5. Establishment of a clean air special fund to be funded by fees collected from sources of specified pollutants based on the amount of pollutant emitted;
6. A requirement that the fees collected from sources pursuant to federal permit requirements pay for the development, support, and administration of those permits; and
7. Establishment of a compliance advisory council.

Finally, because of the importance of ensuring that the Department of Health has the authority to regulate the emission of pollutants, the bill amends specific provisions of current law to provide for this.

It is the intent of your Committee, as stated in Section 12 of this bill, that the Department of Health adopt clean air rules meeting specific federal requirements based on both the federal Clean Air Act and the federal rules when they are published in final form.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of S.B. No. 2719, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2719, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1910 Agriculture and Environmental Protection on S.B. No. 2767

The purpose of this bill is to establish a new law to regulate the servicing of refrigerated appliances and machines utilizing ozone depleting compounds.

Furthermore, the bill appropriates funds for and requires the Department of Commerce and Consumer Affairs to establish a statewide training program for persons who service such appliances.

Testimony in support of the bill was received from the Sierra Club and the Environmental Center at the University of Hawaii.

Upon consideration of the implications of the bill, your Committee finds that new developments are occurring in Washington D.C. in relation to the problems addressed by the bill. In anticipation of prospective federal regulation in this area, your Committee has deleted several prohibitions from the bill but retained the educational requirements for technicians working with the substances of concern.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of S.B. No. 2767, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2767, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Hagino and Solomon.

SCRep. 1911 Agriculture and Environmental Protection on S.B. No. 2840

The purpose of this bill is to appropriate \$200 million to the State Water Pollution Control Revolving Fund to provide financial assistance to governmental agencies for the planning, design, and construction of wastewater treatment works owned by a governmental agency.

Your Committee heard testimony in support of this measure from the Department of Health and the Department of Public Works of the City and County of Honolulu.

Your Committee finds that there is an urgent need for funding to construct the wastewater facilities needed to correct existing problems and to provide for the anticipated growth in the State. Your Committee further finds that the estimated

\$150 million for the City and County of Honolulu and the estimated \$50 million for the other counties are necessary to meet current and future needs for wastewater treatment facilities.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of S.B. No. 2840 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Ikeda and Levin.

SCRep. 1912 Agriculture and Environmental Protection on S.B. No. 2844

The purpose of this bill is to amend the administrative penalties for Chapter 342D, Hawaii Revised Statutes, pertaining to water pollution.

Your Committee received testimony in support of the bill from the City and County of Honolulu.

Your Committee finds that the bill establishes a new procedure by which administrative penalties are handled under Chapter 342D. The bill requires the Department of Health to conduct a hearing on an alleged violation before an order assessing a civil penalty is issued.

Upon further consideration, your Committee has amended the bill by removing all the provisions of the bill and substituting therefor, language which requires the Director of Health to publish a notice of any administrative hearing conducted pursuant to Chapter 342D.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of S.B. No. 2844, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2844, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Hagino and Solomon.

SCRep. 1913 Agriculture and Environmental Protection on S.B. No. 3186

The purpose of this bill is to exempt from the general excise tax, certain labor related operational costs incurred by operators of agricultural businesses.

Specifically, the bill would exempt amounts received by agribusinesses from producers of agricultural commodities for wages, salaries, payroll taxes, and other labor related costs. A similar exemption was granted to hotel operators by Act 351, Session Laws of Hawaii 1989.

Your Committee has amended the bill by clarifying that the exemption will be limited to amounts received by operators of orchard properties for these labor related costs.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of S.B. No. 3186, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3186, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Ikeda and Levin.

SCRep. 1914 Agriculture and Environmental Protection on S.B. No. 3295

The purpose of this bill is to exempt certain oil pollution removal activities from general excise and use taxation.

The Marine Spill Response Corporation (MSRC) testified in favor of the bill.

Your Committee finds that the bill would significantly contribute to environmental emergency response and would also benefit Hawaii's environment at no cost to government. Other jurisdictions have granted similar tax exemptions.

Your Committee finds that MSRC is a private, not-for-profit and tax exempt organization which will provide a best-effort response to catastrophic oil spills in U.S. coastal and tidal waters. Current plans call for a MSRC national system to be operational by February 1993.

Your Committee further finds that MSRC will have a major presence in Hawaii, has voluntarily selected Hawaii as a Deployed Response site, and will be allocating close to \$21,000,000 in new investment capital to protect Hawaii's coastline against major oil spills. Included in MSRC's investment is a new 210 foot response vessel expected to be stationed in Hawaii in January 1993, two barges to carry recovered oil, and spill response equipment.

Your Committee further finds that existing U.S. oil spill response organizations have a limited capability of responding to open sea spills and most of that capability is on the west coast. In 1989, the spill of the Exxon Valdez amounted to approximately 200,000 barrels which far exceeded existing capability available anywhere. Thus, there is a serious gap in existing spill response capability in U.S. coastal waters. It is the objective of MSRC to bridge that gap by providing enhanced capability to mount a best-effort response to such catastrophic oil spills. All MSRC equipment, material, and activities in Hawaii will be primarily for the protection of the public and the public interest through the mitigation of water pollution caused by oil spills.

Your Committee further finds that the U.S. Congress recognized the serious environmental damage caused by large oil spills by enacting the Oil Pollution Act of 1990. Entities, such as MSRC, which were created to respond to the

requirements set forth in the Oil Pollution Act of 1990 will help protect against environmental damage caused by catastrophic oil spills.

Your Committee supports the efforts of entities such as MSRC and believes that the pre-staging of response vessels, barges, and equipment will significantly benefit Hawaii's emergency environmental response.

Your Committee has amended the bill by deleting the general excise tax exemption; specifying that the use tax exemption apply only to ocean-going vessels, barges, or other capital equipment; and by limiting the effective date of the bill to the 1994-1995 fiscal year.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of S.B. No. 3295, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3295, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 1915 Agriculture and Environmental Protection on S.B. No. 3314

The purpose of this bill is to appropriate \$87,000 for Earth Trust to provide an interpretive environmental education program through its Save the Whales project.

Your Committee heard testimony in support of this measure from the Environmental Center of the University of Hawaii and the Department of Land and Natural Resources.

Your Committee finds that over the past several years, Earth Trust has provided quality interpretive programs and has established an impressive record of effective environmental advocacy achievements. Your Committee finds that an interpretive environmental education program is in accordance with the State's objective to promote a greater public awareness of Hawaiian environmental issues.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of S.B. No. 3314 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Ikeda and Levin.

SCRep. 1916 Consumer Protection and Business Regulation on S.B. No. 2361

The purpose of this short form bill is to amend the laws relating to no fault insurance.

Your Committee finds that the increasing cost of obtaining mandatory no fault insurance has become an undue burden on the majority of the State's motor vehicle operating populace. In order for any type of realistic, affordable, and judicious solution to occur, significant legislative reform must be enacted.

To this end, your Committee has amended the bill by inserting substantive provisions which address the issues of cost containment, sufficient health services, and insurance availability.

Specifically, the bill:

- Creates a medical fee schedule modeled after the State's workers' compensation fee schedule;
- Limits nonrenewals and cancellations of no fault policies;
- Requires pre-approval of rate increases on no fault policies;
- Establishes a verbal threshold for filing an action in court for injuries sustained in an automobile accident;
- Increases the mandatory minimum Personal Injury Protection coverage from \$35,000 to \$50,000; and
- Imposes an immediate fifteen percent rollback on no fault insurance rates and a five year rate increase freeze.

Your Committee finds that if implemented, these amendments to the existing law would lower the cost of no fault insurance for the people of the State while still providing for medical services necessary to make those injured in a motor vehicle accident whole again. Although your Committee believes that this bill generally accomplishes these changes in the no-fault law, it is also your Committee's belief that the bill must be further considered and refined. Therefore, your Committee has recommended that the bill be recommitted to it for further consideration.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 2361, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2361, S.D. 1, and be recommitted to the Committee on Consumer Protection and Business Regulation for further consideration.

Signed by all members of the Committee except Senator Tungpalan.

SCRep. 1917 Planning, Land and Water Use Management on S.B. No. 995

The purpose of this bill is to amend the laws of this State relating to land.

Your Committee has amended this short form bill by deleting its substance and inserting new statutory provisions the purpose of which are to enable the Governor to expeditiously settle claims for redress, entitlements, or other legal actions against the State.

Specifically, the bill as amended adds a new section to Chapter 171 authorizing the Governor to convey title to any public lands for the above purpose without regard to any other law or provision, and excludes from the definition of "public lands" under Section 171-2 lands that have been transferred by the Governor through Executive Order or through the authority granted by the new section to specific state agencies for the above-stated purpose.

Your Committee finds that the Governor requires the authority conferred by this bill in order to efficiently carry out present and impending responsibilities relating to the Public Land Trust.

Your Committee on Planning, Land and Water Use Management is in accord with the intent and purpose of S.B. No. 995, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 995, S.D. 1, and be recommitted to the Committee on Planning, Land and Water Use Management for further consideration.

Signed by all members of the Committee except Senators Iwase, Nakasato and George.

SCRep. 1918 Education on S.B. No. 2706

The purpose of this bill is to repeal section 297-12, Hawaii Revised Statutes, which provides procedures for demotion or termination of teachers.

Your Committee finds that all certified department of education personnel who may have been demoted or terminated currently have recourse to request a review of the action through either the collective bargaining agreement grievance procedures or the department's employee grievance procedure adopted by rule. Your Committee further acknowledges that the collective bargaining agreements supercede specific statutory authority on teacher evaluation and, therefore, section 297-12 is not necessary.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2706 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 1919 Judiciary on S.B. No. 2241

The purpose of this bill is to preclude all contributions by foreign nationals and direct contributions by federally-chartered corporations and national banks.

Your Committee received testimony in support of the bill from Common Cause Hawaii and a private individual.

While contributions prohibited under this section are the same as those which the federal government contends are illegal in state and local elections under its laws and regulations, your Committee wishes to make it completely clear that this bill is not intended to demonstrate any acquiescence to that contention. On the contrary, the Legislature should clearly send a signal that it does not necessarily recognize federal jurisdiction in this area and is therefore free to create an independent Hawaii campaign contribution law.

Your Committee is unable to establish a simple but effective method of verifying the legitimacy of campaign contributions in time for inclusion in this bill. That task is therefore delegated to the Hawaii Campaign Spending Commission to establish by regulation based upon their expertise in the area of campaign contribution controls and reporting.

Your Committee is convinced that the issue of foreign campaign contributions must be addressed now to avoid the erosion of public confidence in the democratic process. This bill does this by clearly defining which persons and entities are foreign nationals and by prohibiting contributions from them.

Since the federal government may unquestionably limit the activities of federally-chartered corporations and national banks, the bill mirrors federal election law by prohibiting solicitation and receipt of direct contributions from those entities. However, your Committee wishes to stress that contributions by federal savings banks, savings and loans, and other federally chartered institutions are permitted under this bill through the use of political action committees and other mechanisms.

Therefore, your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2241 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Koki.

SCRep. 1920 Ways and Means on S.B. No. 1028

This bill, as received by your Committee, was a short form bill relating to the budget. Your Committee has amended the bill to establish clear procedures governing executive budget requests not contained in the executive budget or the supplemental budget, as the case may be, which are submitted for consideration to the legislature less than twenty days before the convening of the legislature.

This bill requires the governor to submit separate bills for additional executive budget requests submitted to the Legislature after the executive budget or supplemental budget, as the case may be, has been submitted. The bills would have to include:

- (1) Reasons why the additional request was not included with the original budget or supplemental budget;
- (2) Clear and compelling reasons why the request must be included;
- (3) The percentage increase or decrease the additional request represents in relation to the executive budget or supplemental budget; and
- (4) Other information relating to cost elements, position counts, and program identification numbers.

In previous years, additional budget requests have been made through the use of governor's messages, but only for emergency situations, or where significant new information became available which required action. However, it has increasingly become common practice for the executive to submit additional budget requests for legislative consideration through the use of governor's messages for nonemergency situations. Because the Executive Budget Act does not provide a procedure for the governor to submit such additional budget requests, there is a compelling need to establish clear guidelines for doing so.

The continued indiscriminate use of governor's messages to submit additional budget requests is contrary to the requirements and intent of the Executive Budget Act and abuses the fundamental concept of the system of checks and balances among the various branches of government upon which our system of government rests. The practice of using governor's messages for additional budget requests also deprives the legislature of the time needed to adequately review the governor's additional proposals. This practice undermines the intent of the Executive Budget Act by emasculating established procedures to prepare, coordinate, analyze, and enact a budget to implement the State's program and financial objectives and policies.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1028, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1028, S.D. 1, and be recommitted to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee except Senator Solomon.

SCRep. 1921 Ways and Means on S.B. No. 3237

This bill was introduced as a short form bill.

Your Committee has amended this bill by amending the law establishing the salaries of department heads and executive officers to repeal the effective date of the proviso requiring the legislature to set the salary of the president of the University of Hawaii.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3237, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3237, S.D. 1, and be recommitted to the Committee on Ways and Means for the purpose of holding a public hearing thereon.

Signed by all members of the Committee except Senator Solomon.

SCRep. 1922 Science, Technology and Economic Development on S.B. No. 2877

The purpose of this bill is (1) to provide the high technology development corporation with needed flexibility in considering requests for grants, and (2) to make housekeeping changes.

Currently, the HTDC is required to provide grants of fifty percent of the federal grant up to \$25,000. Your Committee finds that the HTDC should be allowed to grant any amount up to fifty percent based on the amount of funds remaining in the grant account, the number of grants being requested, the number of awards a company has already received in the year, and the urgency of receiving the funds for research. This will help to project the amount of necessary funding since the HTDC receives so many requests each year.

Your Committee on Science, Technology and Economic Development is in accord with the intent and purpose of S.B. No. 2877 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1923 Science, Technology and Economic Development on S.B. No. 3064

The purpose of this bill is to require that the board of land and natural resources establish an ocean resources management plan to protect and enhance Hawaii's ocean resources.

It is the intent of this bill to provide for policies and objectives for the proper utilization, preservation, enhancement, and management of Hawaii's ocean resources.

Your Committee has amended the bill to provide for a drop-dead of July 1, 1994 since this Act is temporary, and to make technical changes.

Your Committee on Science, Technology and Economic Development is in accord with the intent and purpose of S.B. No. 3064, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3064, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1924 Ways and Means on S.B. No. 2722

The purpose of this bill is to remove the requirement that funds paid out from the Hawaii registered nurse student loan fund be by warrants signed by the director of health.

Your Committee finds that section 40-51, Hawaii Revised Statutes, requires that money drawn from the state treasury be by warrants issued by the comptroller's office and signed by the comptroller or the comptroller's deputy. This bill is a housekeeping measure which will conform the Hawaii registered nurse student loan fund law to that law.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2722 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1925 Ways and Means on S.B. No. 2872

The purpose of this bill is to amend the Uniform Unclaimed Property Act to allow the State to recover unclaimed intangible property, specifically security distributions belonging to owners whose addresses are unknown from holders whose headquarters are located in the State.

Your Committee has received testimony from the Department of Budget and Finance that the State is currently authorized to assume custody of such unclaimed property when the issuer is incorporated in the State. However, the "state of the issuer" may be redefined by the federal court from the state where the issuer is incorporated to the state where the issuer has its "chief (principal) executive offices." The bill would authorize the State to recover such unclaimed property under whichever test the United States Supreme Court adopts to define the "state of the issuer."

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2872 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1926 Ways and Means on S.B. No. 2908

The purpose of this bill is to amend the manner in which interest is computed on the refund, underpayment, or nonpayment of the taxes administered by the department of taxation.

Act 136, Session Laws of Hawaii 1991, in part, amended sections 231-23(d) and 231-39(b)(4), Hawaii Revised Statutes, to begin the computation of interest on the overpayment, underpayment, or nonpayment of tax from the prescribed filing date of the tax return.

As a result of the amendments made by Act 136, the computation date for the imposition of additional interest for the underpayment or nonpayment of taxes starts with the due date of the tax and differs from the computation date for the assessment of penalties. Under existing law, any penalty on taxes due is computed from the first day following the due date of the tax return. In other words, there is a one day difference--the due date for interest and the day after the due date for penalties.

This bill would begin the computation of interest on the underpayment or nonpayment of taxes on the first calendar day following the due date of the tax return as is presently the case with penalties. This bill would also begin the computation of interest on overpayments (refunds) on timely filed tax returns from the first calendar day following the due date for payment of the tax.

With respect to late filed tax returns, interest on tax overpayments is currently computed from the date the return is received by the department of taxation. The amendment to section 231-23(d), Hawaii Revised Statutes, would begin the computation of interest from the first month following the month the return is received. This will eliminate the problem of computing interest in more than thirty possible ways for each taxpayer and simplify the computation of interest for both the taxpayer and the department.

This bill amends section 231-23(d)(3), to deem the overpayment of taxes resulting from a carryback of a net operating loss to have been made at the close of the taxable year in which the net operating loss occurred. Generally, a net operating loss may be carried back to the tax return of the third year prior to the loss year and offset taxable income that was reported. As an example, a calendar year taxpayer timely files the 1991 income tax return with a net operating loss on April 20, 1992. The carryback of the 1991 net operating loss to the 1988 tax return results in a tax overpayment and computation of interest. Under existing law, interest would be computed from January 1, 1992, to April 30, 1992.

The amendment to section 231-23(d)(3), Hawaii Revised Statutes, would begin the computation of interest from the first calendar day after the tax return was filed. In the abovementioned example, from April 21, to April 30, 1992, instead of from January 1, 1992, to April 30, 1992. This would be consistent with the computation of interest on other tax overpayments for timely filed tax returns in the proposed amendment to section 231-23(d), Hawaii Revised Statutes, which starts the interest computation from the day after the due date for filing the return. The existing law is less specific in that the overpayment is not deemed to have been made prior to the close of the taxable year.

The intent of this bill is to provide for the same computation date relating to penalties and interest.

Your Committee received testimony in support of this bill from the department of taxation. Your Committee has made technical, nonsubstantive amendments to this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2908, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2908, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1927 Ways and Means on S.B. No. 2911

The purpose of this bill is to update the statutory references relating to the taxation of trade or business income of foreign manufacturers operating both within and outside of Hawaii by substituting references to sections 235-21 to 235-39 for the reference to section 235-5(d), Hawaii Revised Statutes.

Your Committee notes that this administration measure merely replaces the existing obsolete statutory reference with a corrected reference to the Uniform Division of Income for Tax Purposes Act, which is codified as part II of chapter 235, Hawaii Revised Statutes. Your Committee believes that this bill reflects the proper reference for the allocation of income of these taxpayers.

While in agreement with the intent of the bill, your Committee has made a technical, nonsubstantive amendment to the bill by replacing references to "sections 235-21 to 235-39" with "part II" for the purposes of style and brevity.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2911, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2911, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1928 Ways and Means on S.B. No. 2912

The purpose of this bill is to allow affiliated corporations an income tax deduction for dividends received from other members of the affiliated group and to incorporate a change in the percentage of other corporate dividends received that a corporate taxpayer may deduct.

This measure will prevent double taxation of certain income to corporations by allowing those corporations which are able to report their income and file their income tax returns on a consolidated basis for federal purposes to reduce their taxable income for Hawaii purposes by the full amount of dividends received from other members of the affiliated group of corporations. This measure also adopts a 1988 federal amendment to the Internal Revenue Code, not previously adopted, which changes the percentage of dividends received that a corporate taxpayer may deduct. The amount of the deduction is reduced from 80 to 70 per cent of the amount received for certain dividends.

Your Committee agrees with the Department of Taxation and supports the enactment of this bill to prevent double taxation of certain income and to further conform Hawaii's tax law to the Internal Revenue Code.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2912 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1929 Ways and Means on S.B. No. 2914

The purpose of this bill is to simplify and streamline all references to the tax chapters administered by the department of taxation. Rather than make specific references to each chapter number as administered by the department, a reference to "title 14" (title 14 of the Hawaii Revised Statutes contains the State's tax laws) will be used instead. Since 1982, there have been four amendments to as many as nine sections of chapter 231, due to changes to the chapter numbers as a result of measures to repeal or establish new chapters in title 14. This bill will eliminate the need to continually update specific references to chapter numbers.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2914 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1930 Ways and Means on S.B. No. 2916

The purpose of this bill is to allow S corporations to pass the benefits of the tax credit for employment of vocational rehabilitation referrals to its shareholders.

Your Committee finds that other tax credits earned by S corporations are presently passed through to shareholders and claimed on the shareholders' returns.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2916 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1931 Ways and Means on S.B. No. 3074

The purpose of this bill is to reset the increments on which the conveyance tax is computed, without changing the rate of tax, to 50 cents per \$1,000 from 5 cents per \$100.

Your Committee finds that such a change would not raise or lower the taxes, but would simplify the computation and the processing of all documents processed by the bureau of conveyances.

Your Committee adopted the recommendation of the department of taxation by clarifying that the rate be applied to each thousand dollars, rounded up to the nearest thousandth. This is simply to clarify the method of computation and does not make any substantive change.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3074, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3074, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1932 Education on S.B. No. 3432

The purpose of this bill is to authorize the Department of Education (DOE) to accept donations of new school equipment or fixtures. This bill also designates which department has the responsibility to repair and maintain such donated equipment or fixtures.

Your Committee finds that the DOE's budget does not allow it to meet the needs and demands of students. Because the department is not authorized to accept equipment and fixtures, donations are sometimes refused since the department is unable to repair and maintain the donated items. It is the intent of this bill to allow Hawaii's public schools to accept donations of equipment and fixtures which will provide public school students with modern facilities to enhance the learning environment.

Your Committee has amended this bill as follows:

- (1) Clarified that maintenance and repair shall be within the same jurisdiction as other DOE property;
- (2) Provided that a school principal may accept a donation on behalf of the DOE and may consult with parents about the desirability of a donation;
- (3) Provided that the principal or the DOE may solicit donations for purposes of this section;
- (4) Added supplies as a donation as in the case of paint or other materials; and
- (5) Provided that donors shall not be liable for injury claims connected with the equipment or fixture after they are donated.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 3432, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3432, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1933 Education on S.B. No. 2263

The purpose of this bill is to repeal Chapter 319, Hawaii Revised Statutes, relating to Dental Education.

Chapter 319 provides for the "WICHE" plan for dental school education. The chapter was enacted in 1976 to assist Hawaii students in securing a dental education on the mainland.

Your Committee finds that this program was only utilized for one or two years with ten to twelve students participating. It has not been funded for a number of years and there are no current plans to utilize this program, which has been replaced as a budget item for the WICHE under the University of Hawaii. Therefore, this chapter is no longer necessary.

Your Committee has amended this bill to correct a grammatical error.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2263, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2263, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1934 Tourism and Recreation on S.B. No. 3062

The purpose of this bill is to allow the Department of Land and Natural Resources to establish minimum age requirements for the issuance of a hunter education certificate, or the exemption therefrom, required to obtain a hunting license. The bill also makes the hunting license fee optional rather than free for persons sixty-five years of age or older.

Your Committee agrees with testimony submitted by Koko Head Skeet Club indicating that this measure is in accordance with the basic spirit and intent of Act 96, SLH 1989 which required that all hunters complete a hunter education program as a requirement for the purchase of a hunting license.

Your Committee has made a technical, nonsubstantive amendment to the bill.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 3062, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3062, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1935 Tourism and Recreation on S.B. No. 3142

The purpose of this bill is to amend sections 200-23 and 267-3, Hawaii Revised Statutes, by amending the definition of "thrill craft."

Your Committee heard testimony in support of this measure from the Department of Transportation and the Maui Hotel Association indicating that the current definition of "thrill craft" is too narrow, enabling thrill craft manufacturers to circumvent existing legislation.

Your Committee believes that the proposed amendment to the present definition of "thrill craft" would be broad enough to include all new domestic and foreign models of thrill craft which may be developed as a result of improved technology.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 3142 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1936 Planning, Land and Water Use Management on S.B. No. 1594

The purpose of this bill is to place final approval of Special Management Area (SMA) permits with the County Councils after review and recommendation by the county "Authority."

Currently, final approval is vested with the local "Authority," meaning the County Planning Commission except in counties where the County Planning Commission is advisory only, in which case the "Authority" means the County Council or another body designated by ordinance. This bill clearly places final approval with the County Council, assigning to the "Authority" the duties to review and make recommendations to the County Councils on the specifications and appropriateness of SMA permit applications.

Your Committee finds that SMA's can have profound implications and that elected County Councils should have final responsibility for the granting of such permits, after appropriate consultation with and the prior review and recommendation of the "Authorities," which are for the most part appointed. This bill will not affect any county in which the "Authority" is already the elected County Council, but will prohibit County Councils from delegating their responsibilities relating to SMA's.

Your Committee has amended this bill by clarifying the distinction between an "Authority" and a County Council. It is the intent of your Committee that the "Authority" shall be the County Planning Commission, regardless of whether that body is advisory or not.

Your Committee has also amended this bill by conforming the substance of Section 205A-22, Hawaii Revised Statutes, to changes made pursuant to Act 129, Session Laws of Hawaii 1991, and by making some nonsubstantive technical changes for the purposes of style and clarity.

Your Committee on Planning, Land and Water Use Management is in accord with the intent and purpose of S.B. No. 1594, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1594, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1937 Planning, Land and Water Use Management on S.B. No. 2730

The purpose of this bill is to amend Chapter 185, Hawaii Revised Statutes, to redefine the role and jurisdictional responsibilities of the Department of Land and Natural Resources regarding wildfires.

Your Committee finds that wildfires cause extensive environmental and financial damage to property and often threaten personal safety. Your Committee further finds that wildfires are often due to negligence or malice and those responsible should be held accountable. As proposed, this bill will modernize the Department's response capabilities, reaffirm its relationships with other fire agencies, and strengthen the government's ability to hold accountable those who set fires either willfully or through negligence.

Your Committee on Planning, Land and Water Use Management is in accord with the intent and purpose of S.B. No. 2730 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1938 Planning, Land and Water Use Management on S.B. No. 2734

The purpose of this bill is to extend the deadline for the Department of Land and Natural Resources and Kahana Valley residents to execute long term residential leases.

Act 5, Session Laws of Hawaii 1987, authorized the Department to enter into long term leases, by January 1, 1992, with Kahana Valley residents who agreed to participate in interpretive programs for the general public depicting old Hawaiian customs and traditions. Subsequently, the deadline was extended to July 1, 1992 pursuant to Act 106, Session Laws of Hawaii 1991, because it was apparent that more time was needed to accomplish this business.

This bill further extends the deadline to July 1, 1993.

Your Committee finds that although lease agreements have been drafted and lot sites determined, the Department may not meet the July 1, 1992 deadline because the proposed subdivision must still secure certain state and county approvals. In view of these conditions, and the belief of your Committee that the intent of the Legislature in enacting Act 5 is being carried out as expeditiously as possible, your Committee finds it reasonable to extend the deadline one more year.

Your Committee has amended this bill by changing its effective date from June 30, 1992 to upon approval and making other technical changes having no substantive effect.

Your Committee on Planning, Land and Water Use Management is in accord with the intent and purpose of S.B. No. 2734, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2734, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1939 Planning, Land and Water Use Management on S.B. No. 2735

The purpose of this bill is to strengthen and clarify provisions relating to conservation land.

Specifically, the bill clarifies that forest and water reserve zones (Section 183-41, Hawaii Revised Statutes) are conservation districts, and prohibits future residential and agricultural nonconforming uses therein, except on Kuleana land, without approval of the Board of Land and Natural Resources.

The Auditor reported in January, 1991 that the Department should reexamine the allowing, or grandfathering, of nonconforming uses of conservation land for residential or agricultural purposes not already in existence. This bill is the response to the Department's reexamination, and your Committee finds, as does the Department, that such uses should not be a legally conferred right but should rather be permitted only at the discretion of the Board.

Your Committee has amended this bill by making several nonsubstantive technical changes for the purposes of clarity and style.

Your Committee on Planning, Land and Water Use Management is in accord with the intent and purpose of S.B. No. 2735, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2735, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1940 Planning, Land and Water Use Management on S.B. No. 2875

The purpose of this bill is to enable the Hawaii Community Development Authority to impose administrative fines not to exceed \$500 and associated costs, including damage, for violations of Chapter 206E, Hawaii Revised Statutes, or rules adopted thereunder, for which no other penalty is provided.

Currently, the Authority must pursue violations via criminal prosecutions. Your Committee finds that agencies with regulatory functions, such as the Authority, must be able to levy administrative fines in order to carry out their functions more efficiently and cost effectively.

Your Committee on Planning, Land and Water Use Management is in accord with the intent and purpose of S.B. No. 2875 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1941 Judiciary on S.B. No. 576

The purpose of this bill is to amend provisions in the Traffic Code relating to traffic accidents and injuries.

Under the current law, drivers who fail to stop and render aid in traffic accidents that involve personal injury can be fined up to \$1,000 or imprisoned up to ten years, or both, regardless of the degree or severity of the injury.

This bill defines the categories of injuries that occur in traffic accidents, using definitions that are consistent with the existing definitions for injuries described in the Hawaii Penal Code. The bill also establishes grades of offenses in failure to render aid cases based on the severity of the injury involved. Under the scheme of the bill, section 291C-12 would pertain to accidents involving "serious bodily injury" or the severest of injuries, section 291C-13 would apply to accidents involving both property damage and accidents involving "bodily injury" and a section is added to apply to accidents involving "substantial bodily injury."

Testimony in support of the bill was received from the State Department of Transportation and the Honolulu Police Department. The Honolulu Department of the Prosecuting Attorney supported the concept of the bill but testified that an amendment to section 291C-13 is unnecessary since section 291-14 already covers cases involving property damage or injury and therefore could be interpreted to cover cases involving "bodily injury."

Your Committee reorganized the content of the bill to reflect what your Committee believes is the intent and purpose of part II of the Traffic Code relating to accidents and accident reports. Under the present law, section 291C-12 sets forth the offense for failure to render aid in personal injury accidents. Section 291C-13 establishes the offense for failure to render aid in property damage accidents. Contrary to the testimony of the Honolulu Department of the Prosecuting Attorney, sections 291C-14, 291C-15 and 291C-16 merely sets forth the obligations or duties of the driver who is involved in an accident as described in sections 291C-12 and 291C-13; they do not establish separate offenses and therefore are not duplicative of the previous sections. (Sections 291C-17, 291C-18, and 291C-19 set forth other reporting requirements.)

In order to avoid any confusion with the new grades of penalties, your Committee amended section 291C-12 to include serious bodily injury cases, added two separate sections for accidents involving substantial bodily injury and bodily injury, and changed the titles of the provisions to clearly reflect the type of injury to which a provision would be applicable. Section 291C-13 therefore will remain unamended as a property damage section. Your Committee also amended the penalties to conform to those used by the Penal Code and section 291C-161 to reflect the addition of the new offenses.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 576, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 576, S.D. 2.

Signed by all members of the Committee except Senators Ikeda and Koki.

SCRep. 1942 Judiciary on S.B. No. 2203

The purpose of this bill is to protect the inheritance rights of children who are formally adopted by close relatives or stepparents. Under the bill, an adoption does not terminate the rights of an individual to inheritance and succession through either natural parent if that individual was adopted by a close relative or stepparent.

Your Committee received testimony in support of the bill from an attorney in private practice.

Under current law, an adoptee loses all legal contact, including inheritance rights, with his or her natural family. The law is intended to address the "traditional" adoption of a child by strangers, in which all legal and personal contacts between the child and the natural parents are severed.

While it may be appropriate in traditional adoptions, the current law often causes undesirable and unanticipated results when a child is adopted by a stepparent or close relative.

The adoptee's former family may not be aware of the legal effect upon the child's legal status in the family and therefore is unable to plan accordingly. A common situation is when a natural parent dies, the surviving parent remarries, and the stepparent then adopts the child without notice to the family of the deceased parent. Our adoption laws provide for notice only to parents and guardians under certain circumstances, see Section 578-2, Hawaii Revised Statutes, *et. seq.* The deceased parent's father and mother may leave an estate to their "grandchildren," not knowing that this designation has excluded the adopted-out grandchild.

This is also true in adoptions by close relatives, in which the adoptees remain in close contact with their "ohana" or family clan. In these situations, the justifications for restricting inheritance rights of the adoptee do not apply. The child remains within the family circle and is known to his or her relatives, and the intent of such an adoption is not to disinherit the child but to honor a special relationship with the other relatives.

Your Committee finds that this bill will correct the unanticipated and undesirable effects of the current law. Your Committee amended the bill by clarifying and simplifying the language of the bill to better effectuate its intent.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2203, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2203, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Ikeda, Tungpalan and Koki.

SCRep. 1943 Judiciary on S.B. No. 2208

The purpose of this bill is to propose a constitutional amendment to change the starting date of the Reapportionment Commission from March 1 to some unspecified date and make other technical, nonsubstantive changes for clarity and style.

Your Committee received general support for the bill with recommendations and comments from the 1991 Reapportionment Commission, individual commissioners and the League of Women Voters.

Consistent with amendments made to S.B. No. 2201, which was heard on the same day as this bill, your Committee inserted June 1 as the deadline by which the Commission is to be constituted.

Your Committee finds that this delay in the Commission's starting date gives the Commission's staff additional time to obtain U.S. census data, make necessary adjustments to convert the data into the population base employed by the Commission, and make all other necessary preparations before the Commission starts.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2208, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2208, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Ikeda, Tungpalan and Koki.

SCRep. 1944 Judiciary on S.B. No. 2227

The purpose of this bill, as received by your Committee, is to add a definition of "election district" to resolve a potential conflict between the statutory requirement that the candidate receiving the most votes prevail and the geographic residency requirements for most county council candidates which are embodied in Maui county's charter. This technical issue is more fully addressed in an attorney general letter dated October 24, 1988, which is part of the record of the hearing on this bill and is the basis for your Committee's support of this bill.

Based upon testimony received on other election-related bills at the same hearing, your Committee amended this bill to incorporate elements of: S.B. Nos. 144, 1413, 1415, 2246, 2785, and 3207. The creation of an omnibus bill is procedurally preferable to multiple vehicles on the same topic.

1. Your Committee incorporated the substance of S.B. No. 144, with amendments to provide for the purging of voter lists after two election cycles. The current law automatically purges names of nonvoters after one election cycle.

A private individual and Common Cause Hawaii testified that purging should only occur after a voter misses two election cycles. However, the Association of Clerks and Election Officers of Hawaii expressed concern that maintaining lists of persons who either no longer vote or have no intention of voting distorts turnout figures, which in turn inflates election costs.

Your Committee understands the concerns of those who administer Hawaii's elections but also recognizes the need to encourage voter participation. The current system of purging after one election cycle deflates both the number of registered voters and the number of actual voters. Voters participate in elections for different reasons. Some may, for example, vote only in gubernatorial elections. We should not discourage these voters by requiring re-registration for skipping the nongubernatorial elections.

2. Your Committee agreed with the intent of S.B. No. 1413, which was to disallow use of voter registration lists for selecting persons for jury duty, and incorporated its substance into this bill.

The Association of Clerks and Election Officers of Hawaii testified that they receive numerous calls from potential voters who say that they do not register to vote because they do not wish to be called for jury duty. There is a misconception that jury lists are drawn exclusively from voter registration lists. Nonetheless, statistics suggest that any use of registration lists for jury service deters registration. S.B. No. 1413 was intended to remove this disincentive to voter registration.

3. Your Committee incorporated the substance of S.B. No. 1415, the intent of which was to amend section 11-118, Hawaii Revised Statutes, to clarify that vacancies due to a candidate's withdrawal may be filled by the candidate's party after the close of filing only in cases of involuntary withdrawals.

According to the Association of Clerks and Election Officers of Hawaii, any candidate may withdraw within twenty four hours of the close of filing. Under the current law, the political party of the candidate may fill the vacancy within three days of its occurrence. A party could therefore plan for a candidate to file nomination papers, withdraw from the election and subsequently have the vacancy filled by the party -- in effect, "holding" a ballot slot after the close of filing. This scheme is inconsistent with the intent of Hawaii's filing provisions.

Your Committee finds that an amendment is necessary to insure that political parties do not circumvent the filing deadlines.

4. Your Committee incorporated the substance of S.B. No. 2246. This will codify the present practice of permitting children to accompany their parent or an adult into the voting booth so long as this activity does not disrupt or interfere with the voting procedures. Your Committee also conformed the language of section 11-132, Hawaii Revised Statutes, which, if read strictly, may exclude children from the polling place.

Your Committee finds that children should be allowed to observe the electoral process, in order to promote citizenship and facilitate positive role models.

5. Your Committee agreed with the purpose of S.B. No. 2785, which was to authorize the chief election officer, at the request of a county clerk, to require voters in a precinct with fewer than 100 registered voters to vote by absentee ballot if it is not practical to establish a suitable polling place. However, your Committee deleted the unrealistic prerequisite that the chief election officer must determine that finding a suitable polling place is not "possible".

According to the Association of Clerks and Election Officers, one of the unintended effects of the 1991 reapportionment plan was the creation of a number of precincts with fewer than 100 registered voters. The opening,

staffing and operation of polling places for such precincts would be inefficient, particularly since the cost per polling place is over \$5,000 and in some cases, the number of polling officials outnumber the voters. The Association would prefer establishing multiple polling place sites pursuant to section 11-92.2, Hawaii Revised Statutes, but believes that the option of absentee voting is needed in the event that alternatives are not feasible.

6. Your Committee incorporated S.B. No. 3207 with an amendment. The purpose of S.B. No. 3207 was to make an unspecified change to the time by which political parties must submit the names of precinct officials.

The current law requires political parties to submit names for precinct officials not later than 90 days before the close of filing. The Association of Clerks and Election Officers expressed concern that any increase in the time given to the parties would decrease the time available to recruit, train and prepare the necessary workers. According to the Democratic Party of Hawaii, however, preparing precinct lists and recruiting officials have been made more difficult because of reapportionment. Amending the deadline from the 90 days to 30 days prior to the close of filing gives the parties more time to recruit precinct officials.

In order to address the concerns of both sides, your Committee amended the deadline from 90 to 60 days but only in the first election immediately following a reapportionment.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2227, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2227, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Ikeda, Tungpalan and Koki.

SCRep. 1945 (Majority) Judiciary on S.B. No. 2234

The purpose of this bill is to propose constitutional amendments to eliminate holdover senators by terminating all senatorial terms at the general election at which a new apportionment plan becomes effective and providing a method to restagger senate terms as of that general election.

Under the reapportionment plan devised by the 1991 Reapportionment Commission, there will be some communities in the state that will go six years between senatorial elections (from 1988 to 1994). In addition, because the lines could not be drawn to allocate all of the senators according to their place of residence, the constituents of two districts will find themselves represented in the 1993 and 1994 legislative sessions by senators elected from and possibly residing in completely different areas. These two instances of "blind dates" between holdover senators and the districts they will represent, from November 1992 through November 1994, are merely extreme examples. Virtually all holdover senators inherit significant new territory in which they did not previously campaign or stand for election.

Under this bill, there will be no holdover senators when the next reapportionment plan takes effect. All senate terms will expire in the year 2002.

Your Committee received testimony in support of the bill from the 1991 Reapportionment Commission, the Republican Party for District 5A and several individuals. However, there were concerns that the computation formula was confusing, complicated and unfair to senators in hotly contested elections.

Balancing the competing interests of senators not otherwise scheduled to run in 2002 and the principles of representative governance, your Committee believes that the interests of the electorate must prevail and holdover senators be abolished.

Your Committee proposes a new method of restaggering the senate terms by providing that senators whose terms were shortened by the occurrence of the reapportionment year, if re-elected in 2002, are to be assigned to serve four-year terms. All other senators will serve two years, unless the number of senators assigned to serve a two-year term exceeds twelve. If there are more than twelve assigned to serve a two-year term, the number of such senators shall be reduced to twelve by random selection as provided by law.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2234, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2234, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Ikeda, Tungpalan and Koki.
Senator Crozier did not concur.

SCRep. 1946 Judiciary on S.B. No. 2592

The purpose of this bill is to upgrade the offense of theft of a firearm from a class C to a class B felony.

In support of the bill, the Honolulu Department of the Prosecuting Attorney, the Honolulu Police Department, the Hawaii Rifle Association and a private individual testified that the increased penalties and upgraded classification for the theft of a firearm demonstrate the seriousness and dangerousness of the offense and hopefully will be a more effective deterrent or penal measure.

The Public Defender expressed concerns that the upgraded classification is both unjustified and unnecessary since (1) theft of a firearm does not warrant the same penalty as theft of \$20,000 worth of property when penalties for theft offenses are based primarily on value and (2) existing statutes adequately address offenses involving firearms.

Your Committee finds that the seriousness and hazardous nature of firearm thefts justify the upgrade in the penalty and classification. In line with this reasoning and for consistency purposes, your Committee further amended the bill to elevate the thefts of dynamite and explosives.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2592, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2592, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Ikeda, Tungpalan and Koki.

SCRep. 1947 Judiciary on S.B. No. 2670

This is an administration bill (ATG-6), which is intended to make various "housekeeping" amendments to provisions in the Hawaii Penal Code. More specifically, the bill:

- (1) Corrects a typographical error in section 706-660.1;
- (2) Conforms subsection and paragraph designations in both sections 706-660.1 and 712-1225 to the style used elsewhere in the penal code;
- (3) Clarifies the original intent of the law that gambling activities which are conducted during travel to and from other states and territories of the United States and Hawaii are exempt to the same extent as gambling activities which are conducted during travel to and from foreign nations and Hawaii; and
- (4) Eliminates a conflict created by the insertion of a cross-reference to chapter 712A, which refers to judicial or administrative forfeitures which may sometimes require proof beyond a reasonable doubt, in section 712-1230, which refers only to judicial forfeitures and proof by preponderance of the evidence.

Your Committee received testimony in support of this bill from the Department of the Attorney General.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2670 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Ikeda, Tungpalan and Koki.

SCRep. 1948 Judiciary on S.B. No. 2805

The purpose of this bill is to amend the dependent adult protective services law, Chapter 346, Hawaii Revised Statutes, as it pertains to court records, court proceedings, and termination of services. More specifically, the bill:

- (1) Amends section 346-45(a) to authorize access to court records and documents by other parties to the action, their attorneys or guardians ad litem;
- (2) Amends section 346-230 to clarify that a dependent adult who refuses or withdraws consent for services must first be capable of giving consent;
- (3) Requires the Department of Health to also assist those persons who are mentally retarded;
- (4) Provides that it is for the family court and not the parties to determine whether or not a protective services plan and order should be submitted;
- (5) Authorizes the family court to waive a hearing if the appropriate parties agree to the proposed plan and order; and
- (6) Authorizes the family court to review matters without a hearing.

Your Committee received testimony in support of the bill from the Judiciary and the Department of Human Services.

Your Committee finds that the bill will clarify procedures and facilitate the court process without adversely affecting services for dependent adults in need of protection.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2805 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Ikeda, Tungpalan and Koki.

SCRep. 1949 Judiciary on S.B. No. 2893

The purpose of this bill is to expand the coverage provided by section 353-2.5, Hawaii Revised Statutes, to include Department of Public Safety employees who possess police powers and to move this section from Chapter 353, which relates to corrections, to the more appropriate Chapter 353C, which relates to public safety.

Under the current law, the Department is authorized to conduct criminal history record checks, and in certain circumstances, deny or terminate employment of individuals who are or would be directly involved with the treatment and care of persons committed to a facility. This bill proposes to include employees with police powers, such as the sheriffs in the protective services, narcotic enforcement and special services divisions.

Testimony in support of the bill was submitted by the Department of Public Safety and the Department of the Attorney General. The Department of Public Safety testified that criminal history record checks should also be given to employees with police powers and whose assigned duties include the use and possession of firearms.

The Office of the Public Defender expressed concerns that the standards for prior criminal convictions which would trigger denial or termination of employment were unreasonable.

Your Committee, however, finds that public safety warrants the requirement of background checks for those responsible for the safety of others, particularly those with police powers, including the power to arrest, and the authority to carry or possess weapons. Furthermore, the standards from prior criminal convictions are consistent that those used to review other employees within the Department of Public Safety under the existing section 353-2.5.

Your Committee suggested that the Office of the Public Defender discuss its concerns with the union of the affected employees and encourage it to join in the discussions as this bill moves through the legislature.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2893 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Ikeda, Tungpalan and Koki.

SCRep. 1950 Judiciary on S.B. No. 2896

The purpose of this bill is to amend the definition of a "substance abuse test" to clarify that urinalysis testing of individuals under the custody and care of any state agency are excluded from the requirements of Chapter 329B, Hawaii Revised Statutes.

In support of the bill, the Department of Public Safety testified that the bill will clarify that urinalysis testing of offenders under the jurisdiction of the Department of Public Safety and parolees under the supervision of the Hawaii Paroling Authority are excluded from the requirements of Chapter 329B, which is primarily for employment purposes and not intended to apply to in-facility testing of inmates for disciplinary purposes.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2896 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Ikeda, Tungpalan and Koki.

SCRep. 1951 Judiciary on S.B. No. 2897

The purpose of this bill is to combine into one list all regulated precursor chemicals. In addition, the bill authorizes the disclosure of precursor chemical record information to county agencies as well as state and federal agencies.

Your Committee received testimony in support of this bill from the Department of the Attorney General, the Department of Public Safety, and the Honolulu Police Department.

Your Committee finds that these housekeeping changes will simplify the law and aid in its enforcement.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2897 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Ikeda, Tungpalan and Koki.

SCRep. 1952 Judiciary on S.B. No. 2898

The purpose of this bill is to make housekeeping changes to section 329-18(g), Hawaii Revised Statutes, by eliminating duplications from the list of anabolic steroids and correcting typographical errors.

Your Committee received testimony in support of the bill from the Department of the Attorney General, Department of Public Safety, and the Honolulu Police Department.

Your Committee finds that these corrections are necessary to eliminate the confusion presently created by the errors contained in section 329-18(g), Hawaii Revised Statutes.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2898 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Ikeda, Tungpalan and Koki.

SCRep. 1953 Health and Human Services on S.C.R. No. 17

The purpose of this concurrent resolution is to request the legislative auditor to assess the social and financial impacts of mandated insurance coverage for health services related to lead poisoning in children.

Your Committee finds that lead poisoning is one of the most common pediatric health problems and its detrimental effects are totally preventable through routine screening. Your Committee further finds that although screening for lead poisoning is reimbursable under Medicaid guidelines, health insurance coverage should also be mandated for the

screening of all Hawaii's children. Testimony submitted by the Auditor indicates that pursuant to section 23-51, Hawaii Revised Statutes, the legislative auditor is required to conduct an assessment of proposed legislation mandating health insurance coverage before the legislature can consider the measure.

Your Committee has amended this concurrent resolution by deleting reference to any measures introduced which mandate health insurance coverage pending submission of an assessment by the auditor, and by amending the title for clarity.

Your Committee on Health and Human Services concurs with the intent and purpose of S.C.R. No. 17, as amended herein, and recommends that it be referred to the Committee on Legislative Management, in the form attached hereto as S.C.R. No. 17, S.D. 1.

Signed by all members of the Committee.

SCRep. 1954 Health and Human Services on S.B. No. 2382

The purpose of this bill is to establish a permanent needle exchange program and allow the Director of Health to terminate the program if it no longer serves its intended purpose or poses a threat to public health and safety.

Your Committee finds that the needle exchange program is intended to reduce the transmission of HIV by reducing the availability of contaminated needle and syringe units through a one-to-one exchange of used units for sterile units. Your Committee further finds that this program provides a vital link with intravenous drug users by allowing routine contact with a public health worker who can provide education about HIV risks and make referrals to medical and social service agencies.

Your Committee received testimony in support of this bill from the Department of Health, the Sterile Needle Exchange Oversight Committee, the Governor's Committee on AIDS, and many social service agencies who are active in education about and treatment of HIV.

Your Committee has amended this bill by:

- (1) Allowing the programs to be administered by designees of the Director of Health;
- (2) Authorizing the Director of Health to designate private providers of service to operate the program; and
- (3) Requiring the Department of Health to request funding to provide substance abuse treatment, referral, and counseling services for needle exchange program participants who request such services.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 2382, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2382, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Mizuguchi.

SCRep. 1955 Health and Human Services on S.B. No. 2712

The purpose of this bill is to allow the Department of Health to establish charges and collect fees for diagnosis and treatment of tuberculosis.

Your Committee finds that tuberculosis is now a curable and preventable disease, and noninfectious persons undergoing treatment remain in the community to engage in all normal activities. Your Committee further finds that the Department of Health tuberculosis program will continue to provide treatment for all persons with tuberculosis, regardless of their ability to pay.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 2712 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Mizuguchi.

SCRep. 1956 Health and Human Services on S.B. No. 2716

The purpose of this bill is to expand the definition of "employer" within the smoking in the workplace law to include all private corporations, firms, and associations.

Currently, the law applies to private employers who receive state funds under chapter 42. This bill would remove the chapter 42 qualification and make the law apply to all private employers.

Your Committee finds that the existing smoking in the workplace statute does not ban smoking, but rather requires that employers develop and enforce a written policy making reasonable accommodations to the preferences of nonsmoking employees. Your Committee further finds that the protections afforded to public sector employees should extend to those employed in private sector workplaces.

Testimony from the Department of Health indicates that the workplace is an environment in which people spend one-third or more of their adult life and exposure to tobacco smoke represents an established health hazard. The department's testimony also indicates they continue to receive complaints about smoking in private workplaces. The Hawaii Medical Service Association also testified in support of this measure, noting that workplace smoking policies present a health

incentive for employees and a savings in employer-related costs such as insurance, worker's compensation, and absenteeism.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 2716 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1957 Health and Human Services on S.B. No. 2763

The purpose of this bill is to amend the smoking in public places law to include cruise ships operating within the jurisdictional waters of Hawaii.

Your Committee finds that passengers on dinner cruise ships are not afforded the option of nonsmoking seats as provided by law for other eating establishments. Testimony submitted by the Department of Health indicates that they have not been able to respond to consumer complaints about the lack of nonsmoking seats. A recent inquiry found that only one of the seven major dinner cruise operators offer nonsmoking seats for their passengers. Your Committee further finds that the department has sought to obtain voluntary compliance with the smoking law but an attorney general opinion found that attempts to apply current law to cruise ships would likely be unsuccessful. Therefore, your Committee believes that legislation is needed to provide parity in the law for passengers dining on cruise ships who are seeking a nonsmoking seating option.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 2763 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1958 Health and Human Services on S.B. No. 3297

The purpose of this bill is to amend the definition of "restaurant" within the smoking in public places law.

Your Committee finds that there is an ambiguity within the definition of "restaurant" which has made it difficult to equitably enforce the smoking law among different types of food service establishments. Testimony provided by the Department of Health indicates that restaurants are considered a sub-category within the code which authorizes the operation of food service establishments, and thus there is some question about when the smoking law applies to food service establishments other than restaurants. Your Committee further finds that the law should apply equally to all food service establishments, except those specifically exempt.

Your Committee has amended this bill by:

- (1) Providing that the law shall apply to any eating establishment where food is served or provided for on-site consumption by seated patrons, except those specifically exempt; and
- (2) Retaining an exemption from the law for seating areas which are completely outside the restaurant.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 3297, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3297, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1959 Health and Human Services on S.B. No. 3305

The purpose of this bill is to provide certain exemptions from the certificate of need requirements and clarify the responsibilities of the State Health Planning and Development Agency.

Your Committee finds that the state Auditor recently issued Report No. 92-5 on their Review of the State Health Planning and Development Agency. The Auditor recommended that the Legislature consider limiting the function of the agency to regulating large capital investments in health care facilities and medical technology. The report also recommended that the Agency review the scope of the certificate of need program and determine more meaningful thresholds for service categories for which certificates are necessary.

Your Committee supports the recommendations of the Auditor, and therefore, has amended this bill by (1) deleting its substance, and (2) changing the definition of "expenditure minimum" to increase the thresholds for capital expenditures, replacement of major medical equipment, and new medical equipment for which certificates of need are required.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 3305, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3305, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1960 Judiciary on S.B. No. 2231

The purpose of this bill is to amend the Hawaii Rules of Evidence to establish an unqualified privilege, which is designed to create a protective legal shield for confidential communications between a victim of sexual assault, domestic violence, or child abuse or neglect, and a victim counselor.

This bill is based on one of two versions suggested in the Final Report of the Committee on Hawaii Rules of Evidence ("Final Report"). The other version would permit disclosure of otherwise confidential victim-counselor communications upon a showing of substantial relevance and pursuant to an in camera inspection procedure.

Your Committee received testimony in support of the bill from the Judiciary, the Domestic Violence Clearinghouse, Fairness for Abused Women, the Hawaii State Committee on Family Violence, Sex Abuse Interventions, a licensed psychologist and former sex abuse victims.

Others testified in support of the intent of the bill, but suggested amendments. The State Attorney General sought clarification of the requirement that the counselor be from a program which "operates independently of any law enforcement agency...", so as not to exclude victim counselors from programs that would otherwise qualify but receive funds through law enforcement agencies. The State Commission on the Status of Women asked that victim counseling programs under the control of the Attorney General and the Department of Human Services be excluded from the qualified programs. This contraction of the privilege was deemed appropriate because of the law enforcement responsibilities which are part of these departments' functions.

In addition to those two proposed amendments, the Honolulu Department of the Prosecuting Attorney, the Hawaii State Coalition Against Sexual Assault, the Sex Abuse Treatment Center, Kauai County YWCA sought amendments to (1) clarify definitions; (2) expand the definition of a victim counselor; (3) include, as exceptions to the privilege, the duty to provide evidence in child abuse cases, the duty to report elder abuse and the duty to report that the victim is about to commit a crime; and (4) protect the communication from waiver based on cooperation with law enforcement and prosecution of the case.

The Public Defender and a private criminal defense attorney opposed the bill on several grounds: (1) there is no compelling public policy for adopting such a privilege; (2) the privilege excludes relevant evidence; (3) without requiring explicit professional training and standards, as are required for medical doctors, psychologists and the clergy, there is a substantial risk that counseling services will turn into advocacy services; (4) the privilege does not include exceptions found in other privileges; and (5) protecting all communications between victims and counselors impinges on a defendant's constitutional rights to due process and confrontation, which require an in camera review of confidential files, citing Pennsylvania v. Ritchie, 480 U.S. 39, 107 S.Ct. 989, 94 L.Ed.2d 40 (1987).

In response to inquiries as to why the victim-counselor privilege would be unconstitutional if the psychologist-privilege under rule 504.1 was not, the Public Defender opined that 504.1 is also unconstitutional and referred your Committee to a recent memorandum opinion, State v. Greyson, Docket No. 10367, filed 10/1/91, in which the Hawaii Supreme Court held that the defendant's constitutional right to confront witnesses was violated when the defense was unable to cross-examine the defendant's wife about communications that she had with her psychiatrist.

Your Committee reviewed the testimony and conducted its own research in order to address the issues raised. For the reasons stated below, your Committee supports passage of this bill with amendments.

Discussion

The majority of evidentiary rules are primarily designed to aid the fact-finding process. The law of evidence generally assumes that truth can be approached if suitable rules govern the adversary process. E.W. CLEARY, McCormick on Evidence, §72, at 170 (3d ed. 1984). Thus, the general rule in American jurisprudence is that anyone called upon by either party in a case must testify as to any knowledge which bears on the case. United States v. Nixon, 418 U.S. 683 (1974); United States v. Dionisio, 410 U.S. 1 (1973); Branzburg v. Hayes, 408 U.S. 665 (1973).

Nonetheless, certain exceptions or "privileges" exempt some information from disclosure to the judge or jury. These include, for example, communications between husbands and wives, attorneys and clients, and doctors and their patients. SEE HAWAII R. EVID. 501 et. seq. These privileges exist because of our society's belief that certain "interests and relationships are... of sufficient social importance to justify some sacrifice of availability of evidence relevant to the administration of justice." E.W. CLEARY, supra, at 171.

The New Jersey Legislature has pointed out the importance of providing for a privilege for victims and counselors:

The Legislature finds and declares that:

- a. The emotional and psychological injuries that are inflicted on victims of violence are often more serious than the physical injuries suffered;
- b. Counseling is often a successful treatment to ease the real and profound psychological trauma experienced by these victims and their families;
- c. In the counseling process, victims of violence openly discuss their emotional reactions to the crime. These reactions are often highly intertwined with their personal histories and psychological profile;
- d. Counseling of victims is most successful when the victims are assured their thoughts and feelings will remain confidential and will not be disclosed without their permission; and
- e. Confidentiality should be accorded all victims of violence who require counseling whether or not they are able to afford the services of private psychiatrists or psychologists.

Therefore, it is the public policy of this State to extend a testimonial privilege encompassing the contents of communications with a victim counselor and to render immune from discovery or legal process the records of these communications maintained by the counselor.

N.J. STAT. ANN. §2A:84A-22.13, quoted in Final Report at 22-23. While New Jersey's privilege applies to communications between sexual assault victims and their counselors, the rationale behind the New Jersey statute applies to cases involving other victims of violence as well.

Moreover, New Jersey is not alone. At least, twenty states have enacted legislation creating a sexual assault victim-counselor privilege. Nineteen states have counselor confidentiality statutes for domestic violence counselors and victims. Fifteen states have privileges for both sexual assault and domestic violence counselors. This is a dramatic change from 1982, when only two states recognized such privileges. Final Report at 22. For the same policy reasons as are set forth by the New Jersey legislature, your Committee believes that the relationship between victims and their counselors falls within those interests and relationships of sufficient social importance to justify the extension of a testimonial privilege.

Opponents of the bill argue that such a privilege excludes evidence of potential relevance. Your Committee understands that is sometimes the case. Nonetheless, that argument applies not only to a victim-counselor privilege but to all privileges. A privilege would be unnecessary if the communications sought to be protected were not relevant or of potential relevance. Privileges exist because, despite the loss of relevant testimony, they protect relationships in ways that society finds to be necessary.

Another concern raised by the bill's opponents pertains to the lack of professional standards and training of victim counselors, which increases the risk that these counselors will provide advocacy training rather than treatment and cause distortions in the victims' testimony.

Your Committee addressed this concern in three ways. First, your Committee notes that an important feature of this bill is that it applies only to victim counselors engaged in victim counseling programs that run independently of any law enforcement or prosecutor's office. This feature is intended to provide a balance between encouraging victims of violence to obtain necessary counseling and assuring that the privilege will not suppress statements made in the law enforcement context. Your Committee amended this feature to include the Department of Human Services among those offices from which a program must run independently, because of the department's investigative role in abuse and neglect cases. (The Department of the Attorney General, by statute, performs law enforcement and prosecution functions. See §28-1 *et. seq.*, Hawaii Revised Statutes, and therefore is included.) Furthermore, to insure that qualified victim counseling programs "run independently," future funding should not be channelled through law enforcement agencies or through the Department of Human Services. Another reason for this limitation is discussed later in this report.

Second, your Committee amended the bill to limit the privilege to those confidential communications made to a victim counselor "for the purpose of counseling and treatment of the victim for the emotional and psychological effects of sexual assault, domestic, or child abuse or neglect...." This language is intended to exclude communications made in other contexts and is analogous to language in rules 504 and 504.1 pertaining to the physician-patient and psychologist-client privileges.

Third, your Committee included exceptions and other language similar to those in rules 504 and 504.1 to maintain the analogy between the victim-counselor and the other privileges. Your Committee believes that these amendments address a number of concerns by placing the victim-counselor privilege in equal standing with other similar privileges.

As noted above, some opponents argued that the privilege is unconstitutional, citing Pennsylvania v. Ritchie, 480 U.S. 39 (1987) and State v. Greyson, Docket No. 10367, filed 10/1/91.

Your Committee has reviewed Ritchie and finds it inapplicable. First, the court in Ritchie specifically declined to express an opinion on whether the result would have been different if the statute at issue provided absolute protection from disclosure as with an unqualified statutory privilege. 480 U.S. at 57, fn 14, 107 S.Ct. at 1001, fn 14, 94 L.Ed.2d at 57, fn 14. Second, as previously mentioned, this bill contains the feature that the victim counselor be in a program that is independent of any law enforcement or investigative agency. In Ritchie, the records sought were filed from Child Protective Services, which is in charge of investigating child abuse and neglect cases. The U.S. Supreme Court pointed out that it is well settled that the government has the obligation to turn over evidence in its possession that is both favorable to the accused and material to guilt or punishment. 480 U.S. at 57, 107 S.Ct. at 1001, 94 L.Ed.2d at 46. Since communications would not be privileged under our proposed rule unless the victim counselor program is independent of a law enforcement or investigative agency, Ritchie would not apply, since the government would not have the evidence in its possession.

Your Committee also reviewed Greyson, which involved a defendant convicted of murdering his son. The Hawaii Supreme Court found that the testimony of the defendant's wife was crucial to the issue of who committed the injuries to the son, that there were virtually no corroborating witnesses and that the trial court refused to allow the defense counsel to cross-examine the wife about various conversations she had with her psychiatrist. Concluding that defendant's inability to fully cross-examine the wife may well have contributed to defendant's conviction, the Hawaii Supreme Court held that, under those circumstances, the defendant's constitutional right to confront witnesses had been violated.

Your Committee recognizes that a defendant's constitutional rights will override a privilege in those instances involving a direct and irreconcilable conflict between a constitutional right and a statutory privilege. The overriding of a privilege in a particular case, however, does not make the privilege statute unconstitutional. Our courts are capable of making a determination when such instances arise, as the Hawaii Supreme Court did in Greyson.

Your Committee also amended other provisions of the Hawaii Revised Statutes to reflect the addition of the victim-counselor privileges and excluded from the privilege those conversations which are disclosed pursuant to the duty to provide evidence of child abuse proceedings under Chapter 587 and to report suspected elder abuse under Chapter 346.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2231, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2231, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1961 Tourism and Recreation on S.B. No. 2403

The purpose of this bill is to exempt all persons with Hansen's Disease who are residents of Kalaupapa, Molokai from having to pay hunting license fees.

Your Committee agrees with testimony submitted by the Chairperson of the Board of Land and Natural Resources in support of this measure. Your Committee finds that the economic impact of amending the law would be minimal since on the average, only about ten hunting licenses are sold to Kalaupapa residents each year. Furthermore, a fee waiver might encourage more Hansens Disease patients to take up the sport which could have a positive therapeutic effect.

Your Committee has made a technical, nonsubstantive amendment to the bill.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 2403, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2403, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1962 Planning, Land and Water Use Management on S.B. No. 2738

The purpose of this bill is to allow the Department of Land and Natural Resources an additional year to enter into long term leases with qualified residents of Kalawahine, Oahu.

Act 150, Session Laws of Hawaii 1990, set a deadline of January 1, 1992 for executing the leases necessitated by decisions to use the lands for other purposes. This bill extends the deadline to January 1, 1993, and is retroactive to January 1, 1992 upon approval.

Your Committee finds that the Department is working towards executing the leases but requires more time for subdivision of the lands set aside for the long term leases and to meet other state and county requirements.

Your Committee on Planning, Land and Water Use Management is in accord with the intent and purpose of S.B. No. 2738 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1963 Planning, Land and Water Use Management on S.B. No. 2876

The purpose of this bill is to authorize the Hawaii Community Development Authority (HCDA) to enter into agreements with public or private entities to undertake and operate government assisted residential projects without regard to the bidding requirements of Section 103-22, Hawaii Revised Statutes.

The Governor's approval would be necessary to utilize this exemption.

This bill will expedite the development of affordable residential projects which heretofore have been frustrated by the strict advertisement and bidding requirements of Section 103-22. Your Committee finds that expeditious development of affordable housing projects by the HCDA is a compelling public purpose that in some circumstances cannot be satisfactorily achieved without this exemption.

Your Committee has amended this bill by clarifying that construction contracts shall remain subject to the requirements of Section 103-22.

Your Committee on Planning, Land and Water Use Management is in accord with the intent and purpose of S.B. No. 2876, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2876, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1964 Planning, Land and Water Use Management on S.B. No. 2878

The purpose of this bill is to redesignate certain portions of the Aloha Tower Complex.

Currently, the Complex protrudes into the turning basin outside Piers 10 and 11. This bill moves the boundaries back to the Honolulu Harbor Federal Project Line in this area.

Your Committee finds that the protrusion currently provided in the boundary specifications was included to allow flexibility in formulating development proposals. However, the maritime community is concerned about infringement

upon the turning basin, and your Committee finds that deletion of this protrusion from the boundaries will not adversely affect development of the Complex.

Your Committee on Planning, Land and Water Use Management is in accord with the intent and purpose of S.B. No. 2878 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1965 Planning, Land and Water Use Management on S.B. No. 2879

The purpose of this bill is to enable the Board of Directors of the Aloha Tower Development Corporation to elect its Chairperson from within its membership.

Current law designates the Director of Business, Economic Development, and Tourism as Chairperson.

Your Committee finds that designation of the Director was intended to ensure that the Chairperson would be adept at public policy and business. However, the Boards of most public agencies elect their own Chairpersons, and since under this bill the Chairperson will always be an individual appointed by the Governor, your Committee is assured that whomever is elected will possess the qualifications and experience necessary to appropriately carry out the duties of the position.

Your Committee has amended this bill by making nonsubstantive technical amendments for the purposes of clarity and style.

Your Committee on Planning, Land and Water Use Management is in accord with the intent and purpose of S.B. No. 2879, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2879, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1966 Consumer Protection and Business Regulation on S.B. No. 281

The purpose of this bill is to establish a continuing education requirement for veterinarians in the State.

Your Committee received testimony in support of the bill from Charla Jones and Howard Blatt, both of whom are veterinarians licensed to practice in the State. Opposing testimony was submitted by the Board of Veterinary Examiners which stated that such a requirement may be premature.

Your Committee finds that veterinary medicine is a very dynamic field in which advancements in technology, diagnosis, and treatment occur almost daily. In order for the veterinarians of the State to be able to provide the best care available, knowledge of the latest advancements in veterinary medicine must be disseminated on a regular basis. Your Committee finds that this measure will help ensure that this occurs.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 281 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1967 Consumer Protection and Business Regulation on S.B. No. 2206

The purpose of this bill is to delete the legislative intent provision of the bond requirement section of the prepaid legal services chapter.

Currently, the intent section provides that the legislature intends to encourage the formation of prepaid legal plans, and that the Department of Commerce and Consumer Affairs is to take this into consideration when determining the amount and type of security to be held by the plan.

Your Committee agrees with the testimony of the department that the requirement to consider legislative intent may detract from the real requirement of relevant financial factors in determining how much is an adequate security. This in turn may lead to the giving of inadequate security and an inability of the plan to cover its obligations.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 2206 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1968 Consumer Protection and Business Regulation on S.B. No. 2431

The purpose of this bill is to remove the business of debt adjusting from the sunset law.

Your Committee received testimony in support of the bill from the Legislative Auditor.

Your Committee finds that Chapter 446, Hawaii Revised Statutes, pertaining to the business of debt adjusting, never established a regulatory program for the Legislative Auditor to conduct a sunset review. Instead, the chapter established laws prohibiting the business of debt adjusting which are not subject to the provisions of Chapter 26H.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 2431 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1969 Consumer Protection and Business Regulation on S.B. No. 2680

The purpose of this bill is to extend the term of appointment to the State Board of Acupuncture from two to four years, with a maximum of eight consecutive years rather than four years, consecutive or otherwise.

Your Committee received supporting testimony on the bill from the Board of Acupuncture.

Your Committee believes that, by extending the terms, continuity and better regulatory expertise will result.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 2680 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1970 Consumer Protection and Business Regulation on S.B. No. 2682

The purpose of this bill is to include the time sharing program under the Hawaii Regulatory Licensing Reform Act, with a sunset of December 31, 1993.

Your Committee finds that providing for a sunset will assure that the legislative auditor will evaluate the program with a view towards recommendations for improvement. The program has existed since 1980 without a sunset review.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 2682 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1971 Consumer Protection and Business Regulation on S.B. No. 2681

The purpose of this bill is to amend section 455-4, Hawaii Revised Statutes, to increase the membership of the Board of Examiners in Naturopathy from three to five members.

Your Committee heard testimony in support of this measure from the State Board of Examiners in Naturopathy and the Department of Commerce and Consumer Affairs.

Your Committee finds that the proposed increase in the number of Board members would provide the Board with a larger diversity of perspectives and ideas on which to base their decision-making. Your Committee further finds that the Board of Examiners in Naturopathy is currently the only regulatory Board within the Department of Commerce and Consumer Affairs that has less than five members.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 2681 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1972 Consumer Protection and Business Regulation on S.B. No. 2684

The purpose of this bill is to amend section 458-6.5, Hawaii Revised Statutes, to allow the Board of Dispensing Opticians to set by rule the work experience requirements for an individual seeking to be licensed as a dispensing optician.

Your Committee heard testimony in support of this measure from Lens Crafters and the State Board of Dispensing Opticians.

Your Committee finds that recently developed national apprenticeship and training standards for ophthalmic dispensing opticians tentatively recommend a requirement of two years of work experience. Your Committee believes that the proposed amendment would provide the Board with the flexibility to quickly adopt administrative rules to implement these new apprenticeship standards once they become finalized.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 2684 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1973 Consumer Protection and Business Regulation on S.B. No. 2688

The purpose of this bill is to make several housekeeping amendments to the licensing chapter for engineers, architects, and surveyors.

Specifically, this bill provides that the regulatory board shall include in its rules (1) definitions of the branches of engineering in which licensure is offered; (2) clarification of the qualifications needed for licensure; and (3) practice requirements. The bill also provides for part-time experience to qualify for licensure.

Your Committee finds that this bill clarifies the regulatory scheme for this profession and also will allow for certain work experience to count towards licensure.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 2688 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1974 Consumer Protection and Business Regulation on S.B. No. 2689

The purpose of this bill is to provide the Board of Chiropractic Examiners with the flexibility to schedule its examination dates and to update certain provisions relating to chiropractic practice.

Your Committee received supporting testimony from the Board of Chiropractic Examiners.

Your Committee finds that the bill would amend the current requirement that the Board of Chiropractic Examiners schedule examinations in April and October of each year. By providing the Board with the authority to schedule its examinations, the Board would be able to coordinate its examination dates with the National Board of Chiropractic Examiners, thereby facilitating a more expedient process of licensure for prospective chiropractic licensees.

The bill further amends the laws relating to chiropractic practice by making housekeeping amendments that update archaic language, delete obsolete provisions, and consolidate related provisions.

Your Committee has amended the bill by deleting Sections 1 and 9 of the bill based on the testimony submitted by the Board of Chiropractic Examiners which stated that the sections were unnecessary due to revisions of the law included in Act 111, Session Laws of Hawaii 1991.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 2689, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2689, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1975 Consumer Protection and Business Regulation on S.B. No. 2698

The purpose of this bill is to clarify the definition of "collection agency" by removing language that exempts from regulation any "person doing business subject to public supervision and regulation."

Your Committee received testimony in support of the bill from the Department of Commerce and Consumer Affairs.

Your Committee finds that, whatever the original purpose of the exemption, it is now of questionable value as the DCCA is best suited to regulate persons engaged in collection agency activities, notwithstanding that these persons may be otherwise subject to public supervision or regulation. This bill makes it clear that all collection agencies come within the jurisdiction of the DCCA.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 2698 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1976 Consumer Protection and Business Regulation on S.B. No. 2699

The purpose of this bill is to clarify that the buyer in a consumer credit sale transaction may assert any claim or defense he or she has against the seller against the seller's assignee as well.

Your Committee received testimony in support of the bill from the Department of Commerce and Consumer Affairs.

Your Committee finds that this bill would prevent the seller in a credit sale transaction from effectively extinguishing any rights or defenses the buyer might have by assignment of the account to a third party.

Your Committee has made a technical, nonsubstantive amendment to the bill to conform it with standard drafting procedures.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 2699, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2699, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1977 Consumer Protection and Business Regulation on S.B. No. 2700

The purpose of this bill is to allow service of process on a corporation by registered or certified mail when personal service cannot be effected within the State.

Your Committee received supporting testimony from the Department of Commerce and Consumer Affairs on the bill.

Your Committee finds that the bill amends Section 415-14, Hawaii Revised Statutes, by deleting provisions permitting service of process upon the Director of Commerce and Consumer Affairs, and adding provisions based on the Revised Model Corporation Act, which allow process to be served by registered or certified mail, return receipt requested, to the secretary of the corporation at its principal office.

Your Committee believes that this bill will simplify the service of process upon corporations and eliminate the burdensome processing and recordkeeping requirements now applicable to the Director.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 2700 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1978 Consumer Protection and Business Regulation on S.B. No. 2701

The purpose of this administration bill is to amend the laws relating to business corporations, nonprofit corporations, partnerships, and trade names and trademarks.

Your Committee received testimony in support of the bill from the Department of Commerce and Consumer Affairs (DCCA).

Specifically, the bill amends Chapter 415B, Hawaii Revised Statutes (HRS), to clarify the powers and duties of the DCCA with regard to nonprofit corporations. These amendments bring Chapter 415B, HRS, parallel with Chapter 415, the Hawaii Business Corporation Act. The bill also requires that nonprofit corporations file revocations of voluntary dissolution proceedings with the department and sets forth information requirements for the filings.

The bill also amends Section 415-108, HRS, to allow a foreign corporation to file a certificate of registration of a trade name along with its application for certificate of authority so that the corporation may conduct business under its registered trade name.

Additionally, the bill amends both Sections 415-111 and 415B-125, HRS, to require both business corporations and nonprofit corporations, when applying for a certificate of authority to transact business in the State, to also file a certificate of good standing dated no later than thirty days prior to the filing of the application.

Finally, the bill makes amendments which delete or substitute references to either repealed or replaced provisions of the Hawaii Revised Statutes.

Your Committee has amended the bill by making technical, nonsubstantive amendments for purposes of clarity and style.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 2701, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2701, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1979 Consumer Protection and Business Regulation on S.B. No. 2702

The purpose of this bill is to enact housekeeping amendments to the Uniform Securities Act (modified).

Your Committee received testimony in support of the bill from the Department of Commerce and Consumer Affairs.

Your Committee finds that the bill amends the Uniform Securities Act by changing gender specific references to gender neutral references and by deleting a reference to a repealed provision in the Hawaii Revised Statutes.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 2702 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1980 Consumer Protection and Business Regulation on S.B. No. 2771

The purpose of this bill is to provide financial service loan companies with the authority to sell annuities, auto club memberships, and accidental death and dismemberment insurance.

Testimony in support of the measure was submitted by the Hawaii Financial Services Association.

Your Committee has amended the bill, based upon testimony submitted by the Commissioner of Financial Institutions. With respect to the sale of annuities, your Committee has limited sales to fixed rate annuities. Since fixed rate annuities have been found to be similar to certificates of deposit, the bill has also limited such sales to only those companies whose deposits are insured by the Federal Deposit Insurance Corporation. Companies must also obtain the written approval of

the Commissioner and, in approving any request to sell annuities, the Commissioner may impose conditions and restrictions that are in the public interest. These conditions would include, but not be limited to, appropriate regulatory approval from the State Insurance Commissioner, appropriate disclosures to purchasers of annuities, and periodic reports and notification to the Commissioner of material changes in any sales program.

Your Committee has also adopted amendments proposed in Senate Bill Nos. 2772 and 2781, which amend the same statute that is the subject of S.B. No. 2771.

Your Committee has adopted the provisions in S.B. No. 2772 which modernize the terms used to identify certain financial products. With respect to money market deposit accounts, it is your Committee's intent to define such accounts in accordance with Regulation D, 12 C.F.R. Section 204.2(d)(2), as that section currently reads. Your Committee has also adopted technical amendments submitted by the Commissioner regarding the issuance of letters of credit. To ensure the safety and soundness of these institutions, the written approval of the Commissioner should be obtained. In addition, letters of credit should be included in any lending limits applicable to an institution and properly disclosed and accounted for on financial statements.

Your Committee has also adopted proposals to amend Section 408-14(e), HRS, regarding cash reserves and U.S. branches of foreign banks.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 2771, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2771, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1981 Consumer Protection and Business Regulation on S.B. No. 2772

The purpose of this bill is to permit financial services loan companies to branch into other geographic areas, to issue letters of credit, and to modernize statutory terminology relating to financial services loan companies.

Your Committee received supporting testimony from the Hawaii Financial Services Association, Inc.

Your Committee finds that the bill broadens the scope of business in which financial services loan companies may participate and allows them to expand the geographic areas in which they may transact business.

Your Committee has amended the bill to strengthen the safeguards necessary to ensure financial safety and soundness in view of the authorization of these companies to engage in business outside of the State and to issue letters of credit.

Your Committee has amended the bill by adding a new section which allows financial services loan companies to maintain cash reserves in other federally insured financial institutions.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 2772, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2772, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1982 Consumer Protection and Business Regulation on S.B. No. 2780

The purpose of this bill is to amend the laws relating to the regulation of travel agencies in the State.

Your Committee received qualified testimony in support of the measure from the Department of Commerce and Consumer Affairs (DCCA) and other testimony from members of the business community voicing reservations with the bill as written.

Your Committee finds that the bill proposes to amend the provisions of Chapter 468L, Hawaii Revised Statutes, pertaining to the regulation of travel agencies in the State. Chapter 468L was enacted in 1991 and has yet to be fully tested as to its workability.

Specifically, the bill would:

- (1) Replace the requirement that a travel agency file a report prepared by a certified public accountant to show compliance with Chapter 468L with provisions requiring only that an affidavit be filed;
- (2) Delete the requirement that travel agencies furnish customers with their trust accounts numbers;
- (3) Require that all sums received from customers be deposited into a trust account, whether or not tickets or other binding documents have been issued; and
- (4) Delete the requirement that travel agencies furnish the department with their trust account numbers.

In its testimony, DCCA asked that the existing law be given a chance to work before any substantial amendments be made to the law.

To this end, your Committee has decided to use the bill as a means to fine tune the existing law by:

- (1) Amending Section 1 of the bill to allow travel agencies to use a notarized form, rather than an affidavit, in place of the report prepared by a certified public accountant; and
- (2) Retaining the requirement that travel agencies disclose the trust account number of their client trust accounts to the DCCA.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 2780, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2780, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1983 Consumer Protection and Business Regulation on S.B. No. 2784

The purpose of this bill is to provide for a change in the number of days from ten to twenty in which time a secured party may file a security interest against a debtor to take priority over a transferee in bulk or a lien creditor. The bill also provides for the perfection of a security interest within twenty days for purposes of priority over conflicting interests in the same collateral.

Your Committee agrees with the testimony of the Department of Commerce and Consumer Affairs, which has no objections, that this bill would amend the Uniform Commercial Code to expand the time period for a secured party to record the security interest in a purchase money security.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 2784 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1984 Consumer Protection and Business Regulation on S.B. No. 3272

The purpose of this bill is to permit a limited form of interstate banking where there is a failing state-chartered bank, savings and loan or federally insured financial services loan company.

Testimony in support of this measure was submitted by the Commissioner of Financial Institutions and the Hawaii Financial Services Association.

A primary purpose of the bill is to protect Hawaii depositors in the event there is a failing financial institution in the State. Where no other federally insured and qualified institution in the State is eligible to assume deposits or to purchase all assets and liabilities of the failing institution, then, only in that limited circumstance will an out-of-state acquirer be sought. In the event a qualified federally insured institution with its principal place of business in Hawaii purchases the failing institution, no interstate acquirer will be sought or permitted.

Your Committee has amended the bill to include federally insured financial services loan companies as companies who may qualify to acquire a failing financial institution. Upon consideration, your Committee has also deleted references to the "appropriate federal supervisory authority" in Section 5 of the bill. This proposed language is unnecessary since federal law requires obtaining necessary regulatory approvals.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 3272, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3272, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1985 Consumer Protection and Business Regulation on S.B. No. 3286

The purpose of this bill is to change the composition of the State Board of Accountancy by increasing the number of certified public accountant members from five to six, and decreasing the number of public accountant members from two to one.

Your Committee finds that since the State no longer issues licenses for public accountants, their representation on the board should be decreased and that of the CPAs increased.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 3286 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1986 Consumer Protection and Business Regulation on S.B. No. 3436

The purpose of this bill is to provide applicants for a Hawaii osteopathic license with the opportunity to serve an internship of at least one year in either a hospital approved by the American Osteopathic Association and the American College of Osteopathic Surgeons or a hospital approved by the American Medical Association.

Your Committee received testimony in support of the measure from the Board of Osteopathic Examiners.

Your Committee finds that the bill provides osteopathic applicants with more internship options while not lowering any qualification standards for licensure.

Your Committee has amended the bill to clarify that qualifying hospitals should be accredited by the Accreditation Council for Graduate Medical Education of the American Medical Association.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 3436, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3436, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1987 Planning, Land and Water Use Management on S.B. No. 991

The purpose of this bill is to amend the laws of Hawaii relating to planning.

Your Committee has amended this short form bill by deleting the contents and inserting substantive provisions previously considered at a public hearing on another bill, that delegate to the elected County Councils final authority to approve certain projects and activities involving long- and short-range planning and the public interest that heretofore were subject to approval of the respective County Planning Commissions.

As amended, the Planning Commissions will review and make recommendations to the elected County Councils on the desirability of such proposed projects and activities.

It is the finding of your Committee that since it is the responsibility and prerogative of the Legislative Branch of government, whether on the federal, state, or county level, to establish public policy, final approval of projects and activities that impact on public planning priorities or objectives constitute policy decisions and should rest solely with the elected County Councils. The Executive Branch, which includes the Planning Commissions in the case of the Counties, is responsible for carrying out public policies established by the elected branch, and should therefore review these substantive planning proposals, make recommendations, and take whatever administrative action is appropriate to ensure proper and effective implementation or enforcement of the County Council's decisions.

Your Committee on Planning, Land and Water Use Management is in accord with the intent and purpose of S.B. No. 991, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 991, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Solomon and Chang.

SCRep. 1988 Consumer Protection and Business Regulation on S.B. No. 2675

The purpose of this bill is to update the State's Medicare Supplement Insurance Law to bring it into conformance with the 1991 Medicare Supplement Insurance Model Act.

Your Committee received testimony in support of the bill from the Department of Commerce and Consumer Affairs.

Your Committee finds that in 1990, the federal government amended the Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965, as amended, otherwise known as Medicare. As a result, the law relating to insurance policies sold to senior citizens as a supplement to Medicare benefits must be modified to accommodate the change in benefits. This bill provides the regulatory authority and standards by which this is to be accomplished.

Your Committee has made nonsubstantive technical amendments to the bill to conform it with recommended drafting techniques.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 2675, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2675, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1989 Consumer Protection and Business Regulation on S.B. No. 2678

The purpose of this bill is to authorize the implementation of the Federal Drug Marketing Act of 1987 (FDMA).

Testimony in support of the bill was received from the Department of Health (DOH) and the State Board of Pharmacy.

Your Committee finds that the bill implements the provisions of FDMA which requires the State to license and inspect all human prescription drug wholesale distributors by September 14, 1992. In Hawaii's case, the licensing will be handled by the Department of Commerce and Consumer Affairs and the inspection of facilities will be handled by DOH.

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

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 2678, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2678, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1990 Consumer Protection and Business Regulation on S.B. No. 2773

The purpose of this bill is to amend the laws relating to the regulation and licensure of nurses in the State.

Your Committee received supporting testimony from the Board of Nursing.

Specifically, the bill requires that a registered nurse or licensed practical nurse serving on the Board of Nursing maintain a valid license in good standing while serving on the Board. The bill also requires an out-of-state nurse to provide verification of a license in good standing in order to obtain a temporary permit to practice in the State.

Additionally, the bill allows nurses who are graduates from Board of Nursing approved foreign nursing schools to be exempt from taking the Commission on Graduates of Foreign Nursing Schools examination if they pass a Board of Nursing approved English proficiency examination.

Finally, the bill amends the renewal process by stipulating that licenses expire on June 30 of each odd numbered year and requiring an applicant for renewal to apprise the Board of any disciplinary action taken against the applicant during the preceding biennium.

Your Committee finds that the bill strengthens the regulation of the field of nursing, thereby ensuring that only qualified applicants are allowed to practice in the State.

Your Committee has amended the bill by replacing the word "expired" with the phrase "been forfeited" on page 6, line 10. Your Committee has also made other nonsubstantive technical amendments for the purposes of clarity and style.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 2773, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2773, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1991 Consumer Protection and Business Regulation on S.B. No. 3271

The purpose of this bill is to strengthen the laws relating to unlicensed contracting.

Specifically, the bill proposes to: (1) raise the "handyman" exemption from \$100 to \$500 to update the statute with a realistic, inflation-adjusted amount; (2) allow verifiable self-employment experience as credit towards obtaining a contractor's license, provided that the experience was not obtained with the intent to circumvent the licensing laws; (3) raise the fine for aiding and abetting an unlicensed contractor and to make it easier to prosecute those who do; (4) extend the owner-builder exemption holding period from one to two years after completion and to prohibit a violator of the owner-builder exemption from registering as an owner-builder for a period of five years; and (5) provide a consumer with a thirty-day period in which to cancel a contract consummated by an unlicensed contractor in a door-to-door sale.

Your Committee received testimony in support of the bill from the Department of Commerce and Consumer Affairs (DCCA) as well as opposing testimony from various contractors who were opposed to the handyman exemption.

However, your Committee finds that contractors have contributed to the problem of unlicensed contracting by refusing to take smaller jobs, especially when the construction market is booming. In the DCCA's special report to the Legislature, Unlicensed Contracting: Everyone's Problem, Everyone's Fight, the licensed contractors agreed to establish a referral program so that any consumer seeking the services of a licensed contractor can obtain such services regardless of the size of the job. Your Committee finds that opposition to this agreement will result in a continuation of situations in which consumer needs will not be met.

Therefore, your Committee has amended the bill by increasing the handyman exemption to \$1,000, deleting redundancy concerning the self-employment experience provision of the bill, and by making technical amendments for clarity and style.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 3271, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3271, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1992 Judiciary on S.B. No. 1274

The purpose of this bill is to limit the exposure of private landowners who enter into an agreement with the Department of Land and Natural Resources for the purpose of allowing public use of their property under the statewide trail and access system.

This bill received support from the Department of Land and Natural Resources, the Sierra Club, the Kuilima Development Company, the Department of Parks and Recreation of the City and County of Honolulu, and Life of the Land.

Your Committee finds that landowner's liability concerns pose a barrier to trail and access development over Hawaii's privately owned mountain, forest, and shoreline areas. By authorizing agreements to defend and indemnify private landowners who allow public use of their property, this bill will encourage private landowners to open their lands to the

public for recreational purposes, providing greater opportunity for residents and visitors to experience Hawaii's natural resources.

Your Committee has amended the bill to provide that a judgment against a landowner can be executed immediately unless the agreement provides for indemnification by the state. Where indemnification is also provided by the state, execution on a judgment would be stayed until the legislature approved the judgment. Certain nonsubstantive amendments were also made to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1274, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1274, S.D. 1.

Signed by all members of the Committee except Senator Ikeda.

SCRep. 1993 Judiciary on S.B. No. 2201

The purpose of this bill is to amend provisions in Chapter 25, Hawaii Revised Statutes, relating to the operations, duties and compensation levels of the Reapportionment Commission and apportionment advisory councils. More specifically, the bill:

1. Authorizes the Commission, in the event of a successful court challenge of a reapportionment plan, to continue in operation and assist the court in formulating a new plan;
2. Amends the starting date and duration of the Commission;
3. Deletes the requirement that the Commission redistrict based on separate "basic island units," in recognition of the overriding mandate of equality of population under our state and federal constitutions;
4. Requires that the Commission reapportion in conformance with the state and federal constitutions;
5. Amends the deadlines within which the Commission is to conduct public hearings, consult with advisory councils, publish and file its plans, and file its legislative report;
6. Increases the compensation for Commission and advisory council members;
7. Changes the congressional apportionment base from a base of registered voters to a total population base; and
8. Makes other technical changes for purposes of clarity and style.

Your Committee received general support of the bill with recommendations and comments from the 1991 Reapportionment Commission, individual commission members and the League of Women Voters.

Giving due consideration to all of the testimony, your Committee made the following amendments to the bill.

First, your Committee delayed the starting date of the Commission approximately two-and-a-half to three months. This delay gives the Commission's staff additional time to obtain U.S. census data, make adjustments and convert the data into the population base employed by the Commission, and make other preliminary arrangements before the Commission is constituted.

Second, your Committee inserted new deadlines, giving the Commission 100 days from its starting date to publish a preliminary plan and 150 days to file a final report with the Chief Elections Officer, who then has 14 days to publish the plan. The bill also provides that the Commission has 30 days after the filing of the final plan to submit a report to the Legislature.

Third, based on testimony of individual commissioners that the privilege of serving on the Commission is sufficient compensation, your Committee deleted the compensation provisions.

Fourth, your Committee changed the base of congressional apportionment to permanent resident population, which was the base selected by the 1991 Reapportionment Commission in the development of its plan. See 1991 Reapportionment Commission's Final Report and Reapportionment Plan (1991). Reference to the U.S. Census was deleted because your Committee did not wish to preclude the Commission from using other data that it determines to be necessary in obtaining an accurate population count and in developing the plan.

Finally, your Committee changed the effective date of the bill so that it is effective upon approval. In doing so, your Committee recognizes that certain changes in this bill can only take effect after the adoption of constitutional changes which are presently undergoing legislative review. However, there is no harm in making the statutory changes unqualifiedly effective upon approval.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2201, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2201, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Ikeda.

SCRep. 1994 Judiciary on S.B. No. 2342

The purpose of this bill is to require the inclusion of all juvenile felony adjudications in the adult criminal justice data system, amend the definitions of "criminal justice agency" and "dispositions" under section 846-1, Hawaii Revised Statutes, and make technical, nonsubstantive amendments for purposes of consistency and style.

The Judiciary, the Office of Youth Services and the Office of the Public Defender expressed several concerns about the bill. First, the bill is contrary to the family court's policy that juvenile adjudications are not criminal convictions and therefore are confidential. Second, the bill is overbroad in that it would include as part of a person's permanent record adjudications for offenses committed due to immaturity and youth, such as joyriding with another person's car without permission (class C felony) and the unauthorized taking of a bicycle from another person's garage (class B felony). Third, it duplicates the functions of the juvenile justice information system, which is intended for use by juvenile justice agencies to track juvenile offenders and provide data collection for management and research purposes. Finally, it may subject information on juvenile adjudications to public disclosure, similar to adult conviction data.

Notwithstanding the concerns raised, your Committee believes that the advantages of maintaining complete information on an individual's contacts with the criminal justice and juvenile justice systems outweigh the disadvantages. It provides a more comprehensive history of an offender for use by criminal justice agencies, allows for continuity in the tracking of offenders through the systems, and enhances research on issues such as criminal recidivism. Furthermore, your Committee wishes to point out that the juvenile justice information system is not yet operational. Even if it were operational, it is not designed for integration with the adult criminal justice system. Therefore, information that is pertinent to both the juvenile and adult records of an individual would require duplication, in any event.

However, the bill was amended to (1) limit the collection of data to class A felonies to focus on the most serious offenses, which statistics indicate are committed by a small number of serious juvenile offenders; and (2) limit public disclosure. Your Committee believes that the bill, as amended, adequately address the concerns raised at the hearing.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2342, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2342, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Ikeda.

SCRep. 1995 Judiciary on S.B. No. 2674

This bill is an Administration bill (ATG-12) that is intended to improve the administration and efficiency of the Child Support Enforcement Agency (CSEA) and the child support enforcement process and to make provisions consistent with federal law.

First, it eliminates the requirement that CSEA withhold a portion of the debtor parent's unemployment compensation to fulfill delinquent child support payments only through either an agreement with the debtor parent or by bringing legal action.

Second, it makes Hawaii law consistent with federal law, by requiring that the family court review the child support guidelines at least once every four years.

Third, it allows a portion of the interest realized from CSEA's special interest bearing account established for child support payments to be used for the maintenance and operations costs of the account.

Fourth, it clarifies that CSEA staff, in addition to investigators, have appropriate access, including automated inquiry access, to records. This frees the investigators to devote more attention to other aspects of their cases.

Fifth, it authorizes the disclosure of child support information for enforcement purposes, thereby authorizing CSEA to publish the identities of parents owing support.

Sixth, hearings officers are given the discretion to hold hearings by telephone or by other electronic telecommunication methods. Under existing current law, all parties to a hearing must consent before electronic telecommunication methods can be used. Under the requirement of the Federal Family Support Act, CSEA must review and adjust orders where one or more parents reside outside of Hawaii. Travel costs and expenses can be controlled if the hearings officer has the sole discretion to determine when electronic telecommunication use is warranted.

Testimony submitted in support of the bill from the Department of the Attorney General addressed all but the first section of the bill. Therefore your Committee amended the bill by deleting Section 1.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2674, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2674, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cobb and Ikeda.

SCRep. 1996 Judiciary on S.B. No. 3146

The purpose of this bill is to limit the responsibilities of hotelkeepers in relation to activities on public beaches and oceans adjacent to their properties.

Your Committee has amended the bill by providing that nothing in Chapter 486K is intended to limit a hotelkeeper's existing liability exposure for any negligence or any culpable conduct or omission. The intent of the amended bill is to codify existing law. Your Committee was concerned that the bill, as received, went too far and removed the incentive for

hotels to adequately warn of known dangers. The amended bill provides a vehicle for continuing the dialogue on where the line should be drawn.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 3146, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3146, S.D. 2.

Signed by all members of the Committee except Senator Ikeda.

SCRep. 1997 Planning, Land and Water Use Management on S.B. No. 3438

The purpose of this bill is to allow the Board of Land and Natural Resources to extend commercial leases under certain qualifying conditions.

Currently, extensions which would bring the aggregate of the initial term and the extension to fifty-five years, are allowed for intensive agricultural, aquaculture, mariculture, and special livestock leases. This bill would add commercial leases and increase the aggregate to sixty-five years, provided that the initial term is not less than twenty-five years, the lease has been in effect for at least fifteen years prior to the extension, and no prior extension has been granted.

Your Committee notes that the additional ten years may qualify some lessees for mortgages or loans; however, the bill presents difficulties in that some current leases do not have initial terms of twenty-five years, and those that have already been extended to the aggregate of fifty-five years would be ineligible for a further extension.

Your Committee, in view of these concerns, has amended this bill by deleting all special provisions for intensive agricultural, aquaculture, mariculture, or special livestock leases, including the proposed addition of commercial leases, thus applying the same conditions to all leases across the board unless otherwise provided in another statute. Your Committee has also deleted the twenty-five year initial term requirement but retained the provision increasing the aggregate duration of the initial term of a lease and any extension from fifty-five years to sixty-five years in order to help otherwise qualified citizens obtain needed financing or refinancing.

Your Committee has also amended this bill by making technical changes that have no substantive effect.

Your Committee on Planning, Land and Water Use Management is in accord with the intent and purpose of S.B. No. 3438, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3438, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

Rep. 1998 Ways and Means on S.B. No. 2915

The purpose of this bill is to clarify the limitation period for credit or refund of taxes relating to the general excise tax. The wording of the current law is ambiguous and does not clearly distinguish between the limitation period in the case where an annual return is filed from the limitation period in the case where no annual return is filed.

Taxpayers have misinterpreted the law to mistakenly believe that if they have not filed an annual general excise tax return, they have an unlimited time to request a refund or credit. Specifically, taxpayers argue that by not filing annual tax returns by the due date and then filing very late annual tax returns several years after the due date, they can effectively extend the statute of limitations for claiming credits or refunds.

This bill clarifies the proper application of the law and do not change the current practice of the Department of Taxation. The bill clearly sets the statute of limitations on claiming credits or refunds to three years after:

- (1) The actual filing date or the prescribed filing date of the annual tax return, whichever is later; or
- (2) A payment is made without filing an annual tax return or the prescribed filing date of the annual tax return, whichever is later.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2915 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1999 Ways and Means on S.B. No. 2626

The purpose of this bill is to authorize the issuance of general obligation bonds to finance capital improvement projects during fiscal year 1992-1993.

Your Committee finds that the appropriations authorized in this bill are necessary to carry out the acquisition and improvement of land, the development of designs, the preparation of plans, the purchase of equipment, and the construction of capital improvement projects by the State.

Your Committee has amended this bill by making non-substantive changes to the general format of the bill to provide a suitable vehicle for subsequent amendments relating to the authorization and funding of capital improvement projects.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2626, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2626, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2000 Ways and Means on S.B. No. 3209

The purpose of this bill is to appropriate supplemental state matching funds to ensure continuation of the Maluhia project on the islands of Oahu and Hawaii and to expand coverage to the island of Maui.

Your Committee finds that the Maluhia project is a joint federal and state demonstration program that attempts to address the needs of the growing number of uninsured and underinsured individuals who are in need of community-based home health care and long-term case management services as a cost-effective means of managing their health needs. The project targets the low-income "gap group" with a very high probability for extensive hospital or institutional stays and an inability to purchase needed health services. Your Committee further finds that the program has demonstrated that avoidance of lengthy stays in hospitals and other institutions is possible if a multidisciplinary team of health professionals manage delivery of home care in which comprehensive and continuous skilled medical and related health services are combined with long-term case management services. Your Committee has received testimony in favor of this bill from the department of health, the Maui county office on aging, and the Hilo office of the Medical Personnel Pool.

Your Committee has amended this bill by filling in the blank amount to be appropriated with the figure \$360,000 and by making technical nonsubstantive changes for purposes of style, clarity, and consistency.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3209, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3209, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2001 Ways and Means on S.B. No. 3085

The purpose of this bill is to authorize the issuance of general obligation bonds to finance projects authorized by the regular session of 1992.

Section 13, Article VII, of the State Constitution requires the legislature to issue a declaration of findings in every general law authorizing the issuance of general obligation bonds that the estimated total amount of principal and interest will not cause the debt limit to be exceeded at the time of issuance. This bill fulfills that constitutional mandate by outlining the facts, estimates, and assumptions used to calculate the total estimated amount of principal and interest of the bonds authorized by this bill, bonds authorized and issued, and bonds issued and outstanding and ensuring that such estimated amount will not cause the debt limit to be exceeded.

Your Committee has amended paragraph (4) of section 1 of the bill to clarify the types of adjustments made in the calculation of the total amount of authorized but unissued general obligation bonds. Other technical, nonsubstantive amendments were also made.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3085, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3085, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2002 Ways and Means on S.B. No. 2906

The purpose of this bill is to amend Hawaii's income tax law to conform to the changes to the Internal Revenue Code. The changes to the federal income tax law being conformed by this bill are the extension to June 30, 1992, of the low-income housing credit, the exclusion for employer-provided educational assistance, and the partial deduction of health insurance premiums for self-employed individuals.

Your Committee agrees with the department of taxation and supports the enactment of this bill to minimize the taxpayer's burden in complying with federal and state income tax laws by amending Hawaii's tax law to conform to the operative sections of the Internal Revenue Code as provided in section 235-2.3, Hawaii Revised Statutes.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2906 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Aki.

SCRep. 2003 Ways and Means on S.B. No. 3294

The purpose of this bill is to provide funds and new staff positions for a dental clinic on the island of Maui.

Your Committee finds that persons who receive dental care through the support of the state medicaid program are having difficulty gaining access to needed dental care services. Medicaid patients who are not able to receive dental treatment on Maui are often flown to Honolulu at public expense.

Your Committee has amended this bill by specifying the amount to be appropriated as \$277,215, and by changing the staff positions to those recommended by the director of health, specifically: 1 (instead of 2) full-time dentist, 1.5 (instead of 1) dental assistants, 1 dental hygienist, and 1 public health administrative officer (instead of a receptionist/clerk).

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3294, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3294, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2004 Employment and Public Institutions on S.B. No. 2731

The purpose of this bill is to specify qualifications for elevator inspectors.

Current law requires only that an elevator inspector have at least five years experience as an elevator mechanic and meet subjective standards established by the Department of Labor and Industrial Relations.

This bill requires an elevator inspector to meet qualifications of the American Society of Mechanical Engineers and standards set by the Qualification of Elevator Inspectors Committee of the American National Standards Institute. The bill also eliminates the five year experience requirement.

Your Committee finds that this bill will conform Hawaii's law to nationally recognized criteria for elevator inspector qualifications and will therefore provide an appropriate level of regulation in the interest of public safety.

Your Committee has amended this bill by making nonsubstantive technical changes for the purpose of clarity.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of S.B. No. 2731, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2731, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2005 Employment and Public Institutions on S.B. No. 2732

The purpose of this bill is to increase the weekly benefit amount payable under Temporary Disability Insurance (TDI).

Historically, the TDI weekly benefit amount has corresponded to the weekly benefit amount under Unemployment Insurance (UI). Act 68, Session Laws of Hawaii 1991, increased the UI weekly benefit amount by three percent effective January 1, 1992. This bill will change the percentage of weekly wages on which the TDI benefit is based from fifty-five to fifty-eight, bringing TDI benefits into line with current UI benefits.

Your Committee finds that TDI and UI benefits are by policy related and that this bill is necessary to carry out that policy.

Your Committee has amended this bill by making nonsubstantive technical amendments, including reformatting of Section 392-22, Hawaii Revised Statutes, for the purposes of clarity and style.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of S.B. No. 2732, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2732, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2006 Employment and Public Institutions on S.B. No. 2742

The purpose of this bill is to expedite hiring of public employees.

Specifically, the bill empowers the Director of Personnel Services to fill vacancies on the basis of merit and equal opportunity for all applicants, and deletes the meticulous requirements of Section 76-23, Hawaii Revised Statutes, relating to tests, eligibility lists, etc., which give first priority to current employees and have been the cornerstone of public hiring policy for decades.

Your Committee finds that there is a compelling need to adjust public policy relating to hiring of public employees. Present civil service laws do not provide adequate flexibility to enable many public employers to be competitive with the private sector for qualified applicants. This bill provides an alternative policy that is attractive and expeditious in that it appears to be fair to all parties and eliminates lengthy and costly steps that in recent years have served to hinder rather than facilitate hiring in the public sector.

However, your Committee, in considering its fiduciary duties to the people of this State, finds that it must adopt a more cautious approach than that provided in this bill. To repeal the existing hiring procedures and apply new policy throughout the State and the counties should not be done on a permanent basis without data and information regarding the efficiency and efficacy of the change.

Therefore, your Committee has amended this bill by deleting its contents and inserting provisions that:

- (1) Empower the Director of Personnel Services to disregard Section 76-23 and instead determine and establish the manner in which civil service positions shall be filled, in accordance with standards of equal opportunity, and giving first priority to merit (competence) of persons within the service, then objective selection of the ablest person through competition. The Director will establish standards of competence and competition;

- (2) Exempt the counties from these provisions; and
- (3) Provide for automatic repeal on June 30, 1994.

Your Committee finds that civil service reform is most critical on the state level, and that this measure, as amended, will provide information necessary to determine whether its provisions are appropriate and workable and, if so, whether they should be extended to the counties and continued by the State. Your Committee notes that since this bill, as amended, does not delete the substance of Section 76-23, a return to previous policy is automatically provided by the drop dead provision cited in paragraph (3) above.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of S.B. No. 2742, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2742, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2007 Employment and Public Institutions on S.B. No. 2853

The purpose of this bill is to change the term "handicapped" or related terms, as they appear in the Hawaii Revised Statutes, to "disability," or related terms.

The federal Americans with Disabilities Act of 1990 clearly established that the term "disability" is statutorily more accurate than "handicap;" thus this bill will bring Hawaii law into conformity with contemporary nomenclature. Also, your Committee finds that this terminology is preferred by the persons to whom it is applied.

Your Committee has amended this bill by making technical changes that have no substantive effect.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of S.B. No. 2853, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2853, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2008 Employment and Public Institutions on S.B. No. 2892

The purpose of this bill is to facilitate the transfer of non-violent inmates to conditional release or similar community-based programs.

Specifically, the bill provides for notification of county prosecutors and police chiefs only if the transferee was committed for an offense against the person under the penal code or a felony, and requires that the victim be notified if the prisoner was convicted of a felony offense against the person.

Current law requires notification of county authorities of the transfer of any inmate, and the victim if the inmate was convicted of an offense against the person.

Your Committee finds that this bill will allow expeditious transfer of offenders with short-term sentences who have been assessed as non-violent and of minimal risk to the community.

Your Committee has amended this bill by deleting the requirement that victims be notified of transfers of only inmates convicted of felony offenses against the person. Your Committee finds that there are misdemeanor offenses against the person that would be deleted from the notification requirement, thereby obviating the intent to inform all victims of crimes against the person of the movement of their victimizers.

Your Committee has also made some nonsubstantive technical changes for the purposes of clarity and style.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of S.B. No. 2892, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2892, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2009 Employment and Public Institutions on S.B. No. 2900

The purpose of this bill is to place authority for transferring prisoners to federal or out-of-state correctional institutions with the Director of Public Safety.

Currently, the Governor must approve any such transfer. Your Committee finds that this bill will facilitate necessary transfers and thus enhance correctional efficiency in this State. In addition, your Committee finds that this bill will help make Hawaii's policies current with the national trend to empower the departments to make such decisions.

Upon further consideration, your Committee sees a continuing need for gubernatorial approval of transfers of Hawaii felons to federal correctional institutions and has therefore deleted Section 1 of this bill.

Your Committee has also amended this bill by authorizing the Director to transfer Hawaii inmates to out-of-state correctional facilities developed, owned, and operated by the State pursuant to an agreement negotiated by the Governor and the Director with the out-of-state jurisdiction and approved by the Legislature.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of S.B. No. 2900, as amended herein, and recommends that it pass Second Reading, in the form attached hereto as S.B. No. 2900, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2010 Employment and Public Institutions on S.B. No. 2905

The purpose of this bill is to enlarge the pool of inmates eligible to work in the Correctional Industries Program.

Current law allows able-bodied inmates to participate; however, according to the current definition, able-bodied inmates must be sentenced felons. This bill changes the definition to include any person in the custody of the Department of Public Safety who is physically and mentally able to participate in the Program.

Your Committee finds that enlarging the Correctional Industries workforce is consistent with the intent behind the Program and will benefit all parties including the State, inmates, and private employers.

Your Committee has amended this bill by providing that joint ventures involving the Correctional Industries Program and the private sector may be carried out at sites other than those owned or leased by the Department, thus increasing opportunities for constructive application of the Correctional Industries Program. Your Committee notes that this amendment will immediately allow the Department to provide workers for private agricultural enterprises on Maui that cannot find enough local labor. The employers will pay the prevailing wage and cover other related expenses, and the Department will provide security and prepare the inmate to do the work. This amendment will provide authority for the Department to enter into any such agreement, as long as it meets the approval of the Director.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of S.B. No. 2905, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2905, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2011 Employment and Public Institutions on S.B. No. 3040

The purpose of this bill is to require experimental and demonstration housing projects developed pursuant to Section 46-15, Hawaii Revised Statutes, to comply with the provisions of Section 104-2 relating to minimum pay for laborers and mechanics on public works projects.

Your Committee finds that this bill will conform Hawaii law to an Attorney General's opinion and more clearly express the intent behind the statutes under consideration.

Your Committee has amended this bill by requiring all projects, including development of housing under Section 46-15 and Chapter 201E and refurbishment of any real or personal property, to conform to the requirements of Section 104-2, if the project is financed to any extent by public revenues or tax exempt bonds or securities and is therefore a "public project." Housing projects developed by nonprofit corporations and costing less than \$500,000 are exempted. Your Committee has also amended this bill by making it applicable to any public work project for which a contract has not been executed as of its effective date.

Your Committee has also made several nonsubstantive technical changes for the purposes of clarity and style.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of S.B. No. 3040, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3040, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2012 Employment and Public Institutions on S.B. No. 3080

The purpose of this bill is to increase the Workers' Compensation benefit for permanent partial disability.

Under current law, permanent partial disability benefits are computed by multiplying the number of compensable weeks by two-thirds of the injured worker's average wage by the percentage of disability. Thus, a claimant with an average weekly wage of \$300 and a ten percent permanent arm disability (312 weeks of compensation) is eligible for a total of \$6,240 paid in 312 weekly installments of \$20 each. If the person had lost an arm (one hundred percent permanent partial disability) the benefit would be \$200 per week for 312 weeks. Under this bill, the person would be paid a total of \$13,634 (ten percent X 312 weeks X \$437 - the maximum weekly benefit amount), or approximately \$40 per week for 312 weeks (\$400 per week for 312 weeks for loss of the arm).

Your Committee finds that an adjustment is needed to more appropriately compensate claimants under permanent partial disability. However, rather than increase the weekly benefit amount of those not already entitled to the maximum, your Committee prefers to increase the total amount compensable and stretch the payments out over a longer period. Therefore, your Committee has amended this bill by providing that compensation shall be determined on the basis of the maximum weekly benefit amount but paid on the basis of the claimant's average weekly wage.

Your Committee has also amended this bill by making technical changes that have no substantive effect.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of S.B. No. 3080, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3080, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2013 Employment and Public Institutions on S.B. No. 3470

The purpose of this bill is to clarify Section 386-8, Hawaii revised Statutes, by restructuring it into subsections and making other technical changes such as substitution of gender-neutral terminology.

Section 383-8 is one of the cornerstones of the Workers' Compensation Law in that it establishes the right to recover damages from a third party, priority of payments, and the compensable elements in such actions. This statute has not been amended in almost two decades, and the language therein and its structure render it virtually inaccessible to the general public and difficult to work with in legal actions. This bill helps clarify the subject matter and, by use of subsections, will make it easier to cite.

Your Committee has amended this bill by making additional technical changes that have no substantive effect.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of S.B. No. 3470, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3470, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2014 Judiciary on S.B. No. 2673

The purposes of this bill are to: (1) extend the deadlines for public agencies to file public reports with the Office of Information Practices, and (2) release public agencies from any obligation to comply with any provision of Chapter 92F which would jeopardize receipt of federal funding, services, or other assistance.

Section 11 of Act 192, Session Laws of Hawaii 1989, provided staggered time frames and a final deadline of July 1, 1991 by which all agencies must have submitted their public reports. Act 167, Session Laws of Hawaii 1991, extended the staggered time frames and designated September 30, 1992, as the new final deadline, which is currently codified in Section 92F-18(b). This bill further extends the staggered deadlines and sets yet another final deadline - December 31, 1993 - by which all reports by all agencies must be submitted.

Your Committee finds sufficient reason to excuse the failure of certain agencies to comply with the public report law deadlines. In each case, the failure resulted from unforeseeable circumstances or new requirements or responsibilities which severely reduced the time the agency would otherwise have devoted to meeting the requirement. Your Committee is reasonably certain that the agencies that have not yet met the reporting requirements will be able to do so within the extended time frames and by the final deadline provided in this measure.

Your Committee further finds that the State's uncertain financial future requires the Legislature to adopt policies and provide mechanisms to ensure continued eligibility and receipt of federal assistance. The provision in this bill relating to noncompliance with portions of Chapter 92F is consistent with this finding and will resolve conflicts between certain federal and state requirements.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2673, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Tungpalan.

SCRep. 2015 Judiciary on S.B. No. 2883

The purpose of this bill is to repeal section 350-4, Hawaii Revised Statutes, which exempts children treated by spiritual means rather than medical means from being considered as medically neglected under Chapter 350.

Your Committee received testimony in support of the bill from the Department of Human Services, the Department of Human Services Child Welfare Services State Advisory Council, Honolulu Department of the Prosecuting Attorney, Hawaii Medical Association, and American Academy of Pediatrics.

The Christian Science Committee on Publication for Hawaii expressed concern that removing the exemption penalizes parents for adhering to their religious beliefs and proposed a compromise that would exempt children treated by spiritual means from the reporting requirements unless the circumstances indicate harm or substantial risk of harm to the child's health or welfare and necessary medical care is not being provided to treat or prevent that harm or risk of harm.

With respect to the claim of infringement on a parent's right to freedom of religion, your Committee notes that this right is not absolute. As the United States Supreme Court stated in Prince v. Massachusetts, 321 U.S. 158, 166-67 (1944), "The right to practice religion freely does not include liberty to expose the community or the child to communicable disease or the latter to ill health or death." Nor is the parental right to make decisions affecting a child's life or well-being absolute. "Parents may be free to become martyrs themselves. But it does not follow they are free, in

identical circumstances to make martyrs of their children before they have reached the age of full and legal discretion when they can make that choice for themselves." *Id.* at 170.

Your Committee finds that the bill is necessary to insure that all children have equal access to health services. The current exemption does not afford the necessary protection of a child's health and welfare and therefore is inconsistent with the tenets of Hawaii's child abuse and neglect laws. For the same reasons, your Committee rejects the amendment proposed by the Christian Science Committee on Publication for Hawaii.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2883 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Tungpalan.

SCRep. 2016 Housing and Hawaiian Programs on S.B. No. 2283

The purpose of this bill is define public facility, repair, and routine maintenance for the purposes of Act 15, Session Laws of Hawaii 1988. The bill establishes that counties are required to accept public facilities constructed by the state and that Act 15 housing projects are deemed to conform to county standards for such projects. This bill establishes that counties shall be immune from civil liability and damages for certain actions relating to Act 15 housing projects.

It is the intent of this bill to reconcile Act 15 which provides exemptions for state affordable housing projects from county construction standards with the concerns of the counties relating to projects which have not been subjected to county review and approval. The bill clarifies that the standards of the state and county existing when the project is developed are the applicable standards, but if no county standards exist, HFDC can develop standards.

Your Committee finds that while affordable housing projects developed pursuant to Act 15 aid in providing much needed affordable housing to the residents of the state, concerns of the counties regarding their liability must be addressed.

Your Committee has amended this bill by deleting its substance and substituting provisions for a hold harmless and indemnity to provide that counties are indemnified from claims arising out of Act 15 housing projects, except for claims arising out of negligent maintenance or negligent lack of maintenance by the county or when the projects are built in compliance with county standards or when the county has approved the exemptions requested by HFDC. The bill, as amended, no longer provides that counties have immunity from civil suits. Your Committee has further amended this bill to delete definitions of public facility, repair, routine maintenance.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of S.B. No. 2283, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2283, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2017 Housing and Hawaiian Programs on S.B. No. 2708

The purpose of this bill is to clarify that section 3 of the Act of July 9, 1952 (66 Stat. 511, 512) provides that the Hawaiian blood requirements do not apply to certain successors of lessees of Hawaiian homes lands.

It is the intent of this bill to include the proper citation which was inadvertently omitted upon passage of Act 150, SLH 1990.

Your Committee has made a technical amendment for the purposes of clarity and style which does not affect the substance of the bill.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of S.B. No. 2708, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2708, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2018 Housing and Hawaiian Programs on S.B. No. 2826

The purpose of this bill is to exempt counties from a statutory provision requiring counties to share with Housing Finance and Development Corporation (HFDC) the appreciation in value of units which received funding from the Rental Assistance Program when those projects are refinanced.

It is the intent of this bill to assist the counties in providing affordable housing by allowing the counties to realize a return on their equity investment from such projects which can be used to develop additional affordable units.

Your Committee finds that there is a shortage of affordable housing in the State which cannot be remedied by any one agency. Consequently, your Committee finds that it is necessary to assist the counties in their efforts to provide affordable housing by creating the exemption established in this bill.

Your Committee has amended this bill to allow the State the discretion to exempt a county that does not intend to apply the gain in appreciation for affordable housing purposes.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of S.B. No. 2826, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2826, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2019 Housing and Hawaiian Programs on S.B. No. 2862

The purpose of this bill is to establish that the Housing Finance and Development Corporation (HFDC) may develop federal lands with the approval of the federal government.

It is the intent of this bill to allow HFDC to develop federal property to provide affordable housing on military bases. Currently, the HFDC is prohibited from such development.

Your Committee finds that there is a need for affordable housing in Hawaii for military as well as civilian residents. The development of military housing will provide homes for military residents now occupying non-military housing.

Your Committee has accepted the recommendations of the Housing Finance and Development Corporation in amending this administration bill by removing language which authorized HFDC to develop agricultural parks. Your committee also amended the bill to authorize HFDC to assist in the development of federal lands.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of S.B. No. 2862, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2862, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2020 Housing and Hawaiian Programs on S.B. No. 2867

The purpose of this bill is to clarify the definition of "eligible borrower" and "eligible loan" in the Taxable Mortgage Securities Program and to clarify what portion of the rental assistance revolving fund may be used by the Housing Finance and Development Corporation (HFDC) to make payments under rental assistance contracts, rent subsidies, or construction financing. This bill also provides that proceeds of any bond issues may be included in the principal sum of the rental assistance revolving fund and authorizes the Director of Finance issue to HFDC a guarantee of the aggregate amount of assistance payments for the term of the rental assistance contract.

It is the intent of this bill to expand opportunities for development of affordable rental housing projects. This bill clarifies that a qualified sponsor of an affordable housing project is an eligible borrower who may receive an interim or permanent loan to finance development of an affordable housing project. Currently, loans are available only to individuals or families for the purchase of a housing unit.

It is also the intent of this bill to allow a more efficient use of Rental Assistance Program appropriations. Currently, HFDC is only allowed use of the interest from the rental assistance revolving fund. This bill allows HFDC to use the principal of the fund for rental assistance contracts, rent subsidies or for financing of an affordable rental project by a private developer.

Your Committee finds that there is a shortage of affordable housing in Hawaii and that development of affordable housing projects by private entities must be encouraged. This bill encourages private developers by making funds available for construction financing at below market rates.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of S.B. No. 2867 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2021 Housing and Hawaiian Programs on S.B. No. 2885

The purpose of this bill is to provide that Hawaii Housing Authority (HHA) projects are deemed approved by county councils and the Land Use Commission forty-five days after they are submitted if the projects are not disapproved within that time. This bill also exempts HHA from competitive bidding laws.

It is the intent of this bill to expedite HHA's ability to develop low income rental housing by returning to HHA development advantages it formerly held under prior law.

Your Committee finds that this bill is necessary for HHA to maintain its status as public housing agency with the federal Department of Housing and Urban Development.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of S.B. No. 2885 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2022 Transportation and Intergovernmental Relations on S.B. No. 2743

The purpose of this bill is to authorize the Department of Transportation to accept credit card payments for airport charges.

Your Committee finds that the acceptance of payment by credit card is a widely accepted business practice that should be extended to airport tenants.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 2743 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2023 Transportation and Intergovernmental Relations on S.B. No. 2746

The purpose of this bill is to provide a penalty for employers using unqualified commercial drivers.

Currently, the law prohibits employers from using unqualified drivers but does not contain a penalty for noncompliance.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 2746 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2024 Transportation and Intergovernmental Relations on S.B. No. 2749

The purpose of this bill is to expand the Barbers Point pilotage area within which a licensed pilot must be on board a ship that is anchoring or leaving the pilotage area.

Your Committee finds that because of the increasing number of ships in the waters off Barbers Point, a larger pilotage area is necessary to provide a suitable area off Barbers Point for anchoring vessels awaiting access at either the offshore mooring or the commercial harbor. This is for safety and environmental reasons.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 2749 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2025 Transportation and Intergovernmental Relations on S.B. No. 2823

The purpose of this bill is to allow the director of finance to accept the county certificate of title as prima facie evidence of ownership of a vehicle being registered or transferred.

Your Committee finds that the requirement of a comparison of the seller's signature on the certificate of title before the processing a transfer of ownership is an outdated, unnecessary practice.

Your Committee has amended the bill to delete provisions which would allow the director of finance to enter into contracts with the private sector for the registration and issuance of license plates for new vehicles.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 2823, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2823, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2026 Transportation and Intergovernmental Relations on S.B. No. 2871

The purpose of this bill is to allow a driver to give proof of financial responsibility to the county, instead of the state director of finance, as required for the issuance of a driver's license which has been suspended or revoked.

Your Committee finds that Chapter 287 relating to motor vehicle safety responsibility is currently administered by the counties. Your Committee further finds that this bill would allow an individual who needs to comply with the requirements of this law to work with only one governmental entity, and thereby eliminate the inconvenience of dealing with two levels of government. Testimony submitted by the City and County of Honolulu indicates that they would prefer to accept either cash or a bond in the amount of \$25,000, rather than securities as proof of financial responsibility.

Your Committee has amended this bill by allowing the county administrator to accept cash or bonds in the amount of \$25,000 and has deleted all references to securities.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 2871, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2871, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2027 Transportation and Intergovernmental Relations on S.B. No. 3044

The purpose of this bill is to conform state law on parking for persons with disabilities with the guidelines established at the federal level.

Your Committee finds that a uniform parking system will enhance the access and safety of persons with disabilities.

Your Committee has amended the bill by changing the effective date from July 1, 1992, to October 1, 1992, to give the counties enough time to have placards and license plates available for distribution.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 3044, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3044, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2028 Planning, Land and Water Use Management on S.B. No. 995

The purpose of this bill is to enable the Governor to expeditiously settle claims for redress, entitlements, or other legal actions against the State.

Specifically, the bill adds a new section to Chapter 171, HRS, authorizing the Governor to convey title to public lands for the above purpose without regard to any other law or provision, and excludes from the definition of "public lands" under Section 171-2 lands that have been transferred by the Governor, by means of this new authority or through Executive Order, to specific state agencies for the above-stated purpose.

Your Committee finds that the Governor requires the authority conferred by this bill in order to efficiently carry out present and impending responsibilities relating to the Public Land Trust. However, your Committee does not foresee a need for perpetual authority. Any transactions effected pursuant to this bill should be completed expeditiously in accordance with its purpose.

In view of the above-stated consideration, your Committee has amended this bill by providing for its repeal on December 31, 1993. Your Committee has also provided for interim and final reports on transactions made pursuant to this bill to be submitted to the legislature jointly by the Department of Land and Natural Resources and the Office of State Planning prior to the 1993 and 1994 Regular Sessions, respectively.

Your Committee on Planning, Land and Water Use Management is in accord with the intent and purpose of S.B. No. 995, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 995, S.D. 2.

Signed by all members of the Committee.

SCRep. 2029 Consumer Protection and Business Regulation on S.B. No. 2258

The purpose of this bill is to provide a mechanism to enforce current no-fault laws requiring the surrender of a motor vehicle registration certificate and license plates upon termination of the insurance.

The enforcement mechanism is to require the police department to locate the vehicle and remove the license plates if the owner has not surrendered them to the county director of finance.

It is the intent of this bill to get the uninsured vehicles off the road by removing the license plates.

Your Committee finds that there is a large proportion of motor vehicles which are uninsured and that some measure must be taken to get these vehicles off the road. Uninsured vehicles mean that the drivers are uninsured motorists who contribute to the high cost of premiums for insured motorists.

Your Committee has amended this bill by adopting the recommendation of the City and County of Honolulu Finance Director to address technical procedural concerns for their department in implementing this law, and also to replace the word "immediate" with "thirty days."

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 2258, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2258, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2030 Consumer Protection and Business Regulation on S.B. No. 2438

The purpose of this bill is to eliminate the statutory bond requirement for new and used car dealers, motorcycle and motor scooter dealers, and motor vehicle auctioneers and to add new licensing requirements to ensure continued compliance with the Motor Vehicle Industry Licensing Act.

Your Committee received testimony in support of the bill from the Motor Vehicle Industry Licensing Board and the Hawaii Automobile Dealers' Association.

Your Committee understands the difficulty licensees experience in obtaining statutory bonds and therefore believes that the requirement should be repealed.

Your Committee has amended the bill by adding a new subparagraph (B) to Section 437-11(2), Hawaii Revised Statutes, which requires that a motor vehicle sale site have suitable sanitation facilities and making nonsubstantive technical amendments for the purposes of clarity and style.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 2438, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2438, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2031 Consumer Protection and Business Regulation on S.B. No. 2770

The purpose of this bill is to ensure professional-level underground storage tank consulting services by requiring the licensure, permitting, or registration of those contractors offering such services in Hawaii. This bill requires the board of contractors to adopt rules to define the activities of underground storage tank specialty contractors.

Your Committee finds that the underground storage tank laws, regulations, rules, and requirements of the State and the federal Environmental Protection Agency impose requirements and responsibilities on many small business owners and operators of underground storage tanks in Hawaii. Unlike large corporations, small businesses typically lack the resources and technical expertise to independently comply with these requirements. Accordingly, small businesses have generally relied on the technical advice and services of contractors.

Currently, however, existing rules of the department of commerce and consumer affairs for specialty contractors are not specific enough to cover contractors who install, remove, and retrofit underground storage tanks. The result has been the participation of poorly qualified contractors in the underground storage tank installation, repair, and removal marketplace. A problem arises when the work performed by these contractors falls below the standards established by the state and federal government. Current federal regulations are quite stringent and hold the owner of the underground storage tank, not the contractor, responsible for the work performed. To ensure that only reputable and qualified contractors are able to obtain licenses to perform underground storage tank installation, repair, and removal services, your Committee finds that legislation to enable the regulation of these contractors is necessary.

While it concurs with the intent and purpose of this bill, your Committee finds that a clearer description of the work activities of underground storage tank specialty contractors should be established in the law, rather than under departmental rules, to ensure consistency with the legislature's intent. As received by your Committee this bill requires the contractors license board to adopt rules to outline the activities of underground storage tank contractors. To clearly define the permitted activities of these contractors, your Committee has amended this bill by inserting a statutory definition of the activities permitted by underground storage tank contractors. Your Committee has also indicated that the definition of an underground storage tank under the new section shall be consistent with the term as defined in section 342L-1.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 2770, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2770, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2032 Consumer Protection and Business Regulation on S.B. No. 2777

The purpose of this bill is to exclude from the definition of "travel agency" all air carriers and water carriers.

Testimony in support of the bill was submitted by Outrigger Hotels of Hawaii, Aloha Airlines and the Hawaii Hotel Association. Testimony in opposition to the bill was submitted by the Department of Commerce and Consumer Affairs (DCCA), Activities Owner Association and the Hawaii Business League.

Your Committee finds that the arguments raised by those opposing passage of the bill have substantial merit. If a company such as an airline sells its own services, it is exempt from the provisions of the laws regulating travel agencies. However, if the airline sells the travel-related services of others, it is acting as a travel agent and subject to the laws regulating such agencies.

Your Committee finds that travel services for which no commission or other consideration is paid and in which no consumer monies are taken for payment to another are essentially done as a matter of accommodation to the consumer. These services do not raise the kind of concerns that led to the enactment of the new travel agency law in 1991 and can appropriately be exempted from coverage.

Your Committee has amended the bill by deleting its substance and replacing it with a new section which exempts air carriers and hotels (which provide services similar to those provided by air carriers) from the coverage of Chapter 468L when, as intermediaries, they assist in providing travel services but do not accept payment, commission, or other compensation. Your Committee wishes to make clear that this bill will not change current law, which allows air carriers and hotels to charge for their own directly-provided travel services without falling within the coverage of the chapter. Lastly, as no testimony was presented on the need to exclude the services of water carriers, that exclusion was deleted from the bill.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 2777, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2777, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2033 Consumer Protection and Business Regulation on S.B. No. 3282

The purpose of this bill is to prohibit the exclusion from insurance policy drug coverage of any drug on the basis that the drug has not been approved by the federal Food and Drug Administration (FDA) for the particular use intended -- that is, on the basis of "off-label use" -- if the drug meets certain medical reference criteria or is approved by a panel appointed by the Insurance Commissioner.

Your Committee received testimony in support of the bill from the Governor's Committee on AIDS, the Queen's Medical Center's Cancer Institute, the University of Hawaii's Cancer Research Center of Hawaii, and the Hawaii Federation of Physicians and Dentists.

The Department of Health (DOH) supported the intent of the bill but suggested that it be held pending further study.

The Department of Commerce and Consumer Affairs (DCCA) testified that the Insurance Commissioner does not have the medical expertise necessary to effectively implement the bill and that liability may ensue if injury results from a decision made by the proposed panel or the Commissioner.

Your Committee understands the concerns raised by both DOH and DCCA. However, your Committee also realizes the urgent need for so-called off-label drugs by patients who suffer from cancer and AIDS. The absence of coverage for these drugs significantly impedes a physician's ability to provide treatment and also lessens a patient's chance of survival and prolonged life expectancy.

Therefore, your Committee has amended the bill to shift the authority for appointing the medical panel and managing the provisions of the bill to DOH. Your Committee is confident that DOH has the expertise necessary to ensure the safe implementation of this program.

Your Committee has also made several nonsubstantive technical amendments for the purposes of clarity and style.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 3282, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3282, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2034 Planning, Land and Water Use Management on S.B. No. 2566

The purpose of this bill is to amend the Hawaii State Planning Act's objectives relating to affordable housing by emphasizing public/private sector cooperation and collaboration, the State's obligation to develop and provide affordable rental housing, and development of emergency, transitional, and single occupant rental units for Hawaii's special needs population.

Your Committee strongly supports public/private cooperation and collaboration in developing affordable housing, and finds that the State has a responsibility to increase the supply of affordable rental housing. However, your Committee finds that the provision relating to emergency, transitional, and single occupancy rentals, identified in the findings of this bill as intended for the special needs population comprised of socially disadvantaged citizens, is too specific for Part I of the Plan. Part I consists of broad objectives such as public/private collaboration and State-sponsored rentals.

Accordingly, your Committee has amended this bill by deleting the amendment to Section 226-19(b), Hawaii Revised Statutes, and revising the findings and purpose provided in SECTION 1 to reflect this amendment.

Your Committee has also made some nonsubstantive technical amendments for the purpose of clarity and style.

Your Committee on Planning, Land and Water Use Management is in accord with the intent and purpose of S.B. No. 2566, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2566, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Hagino.

SCRep. 2035 Planning, Land and Water Use Management on S.B. No. 2598

The purpose of this bill is to empower the Legislature, by concurrent resolution, to disapprove any amendment to Conservation District boundaries recommended as part of the Land Use District Boundary Review required under Section 205-18, Hawaii Revised Statutes.

Your Committee, after considering testimony in opposition to this measure from the Office of State Planning and various environmental groups, finds that rather than focusing on this specific measure, the land use regulatory and management systems at the state and county levels need to be examined to identify areas that require strengthening, revision, or other forms of substantive amendment to best achieve public goals and objectives.

Therefore, your Committee has amended this bill by deleting its substance and inserting provisions requiring the Office of State Planning to conduct a comprehensive study of state and county land use regulatory and management laws and practices for the purpose of identifying areas that require change, and recommending to the Legislature specific remedial actions. The Office shall seek broad community and private sector input as well as input from other state agencies and the counties, and shall submit its report of findings and recommendations to the 1994 Legislature.

Your Committee on Planning, Land and Water Use Management is in accord with the intent and purpose of S.B. No. 2598, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2598, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2036 Health and Human Services on S.B. No. 2420

The purpose of this bill is to establish a food safety consultation and education program within the Department of Health.

Your Committee finds that food handlers and food industry managers who are educated about sanitary conditions in food preparation are essential for the control of germs and toxins in foods served to the public. Your Committee further finds that the Department of Health has been working with the Hawaii Restaurant Association to develop an educational program to attain voluntary compliance with food safety regulations from restaurants.

Testimony submitted by the Department of Health indicates that a food safety consultation and education program is currently under development, and so the department only needs statutory authority at this time and defers the appropriation request until the next biennial budget. Your Committee, therefore, has amended this bill by:

- (1) Establishing a Food Safety Consultative and Education Program in Chapter 328, to be administered by the Department of Health;
- (2) Deleting the section requesting that the Department make a report to the Legislature on a reorganization to include a food safety consultation and education program; and
- (3) Deleting the appropriation section.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 2420, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2420, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2037 Health and Human Services on S.B. No. 2453

The purpose of this bill is to allow pharmacists to fill or refill out-of-state oral or written prescriptions for non-narcotic drugs.

Your Committee finds that current Hawaii law prohibits filling out-of-state prescriptions unless the pharmacist is presented with the original written prescription. Testimony presented by the Hawaii Pharmaceutical Association indicates that Hawaii pharmacists are often faced with violating the law when they provide medication for a chronic medical condition to a visitor without an original written prescription. Your Committee further finds that although it is preferable to have an original written prescription, the law should be amended to allow local pharmacists to assist our visitors by providing them with medication on a limited basis.

Your Committee has amended this bill by:

- (1) Adding that the use of this section is prohibited for the dispensing of habit forming drugs;
- (2) Changing the prescription limit from a 30-day to a 60-day supply; and
- (3) Making technical changes for the purposes of clarity and style which do not affect the substance of the bill.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 2453, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2453, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2038 Health and Human Services on S.B. No. 2454

The purpose of this bill is to allow physicians to prohibit the use of generic drug substitutions when medically necessary.

Your Committee finds that the use of generic drug products can provide less costly medications for persons who may be adequately treated with such generics. Your Committee further finds, however, that there are certain conditions for which substitutions can have detrimental effects. Testimony received from the Epilepsy Foundation of Hawaii indicated that the substitution of anti-epileptic drugs for the treatment of convulsions can result in serious side effects due to drug toxicity.

Your Committee has amended this bill by prohibiting the substitution of equivalent drug products for anti-epileptic drugs, except upon the consent of the prescriber and the patient, or the patient's parent or guardian. Your Committee has also amended this bill to add a savings clause to authorize the revisor of statutes to reconcile language of this bill with that of S.B. No. 2453, S.D. 1.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 2454, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2454, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2039 Health and Human Services on S.B. No. 2720

The purpose of this bill is to allow the Director of Health to waive the residency capacity from two to five adults in adult foster homes.

Your Committee finds that foster care for adults with developmental disabilities is an important alternative to institutionalization. Your Committee further finds that children with developmental disabilities are placed with foster families who are forced to relinquish the children when they reach the age of majority because there are other adults with developmental disabilities residing in the home. Testimony received from the Department of Health indicates that they are willing to waive the statutory limit for adult foster homes from two to five adults to allow children who become adults to remain with the same foster family.

Your Committee has amended this bill by:

- (1) Using section 321-11.2 establishing adult foster homes to make the proposed statutory changes; and
- (2) Cross-referencing the definition of "adult foster homes" in section 321-11 to section 321-11.2.

Your Committee on Health and Human Services is in accord with the intent and purpose of S.B. No. 2720, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2720, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2040 (Joint) Judiciary and Health and Human Services on S.B. No. 3367

The purpose of this bill is to designate the department of human services as the lead agency for the planning and provision of services related to domestic violence and sexual assault.

Your Committees find that victims of domestic violence and sexual assault often need a wide-range of services provided in a timely manner. Your Committees further find that there are various community resources available to provide these services. However, there is a lack of coordination between the state executive departments which may hinder service delivery to victims. Testimony received from the Hawaii State Commission on the Status of Women indicates that a study by the Office of State Planning recommended that the Department of Human Services be designated as the lead agency to coordinate contracts for services offered for victims of domestic violence and sexual assault. The Commission and other testifiers requested that the Department be designated as lead agency only for executive department programs, so that programs appropriately administered within the Judiciary would not be included.

Your Committees have amended this bill by:

- (1) Designating the Department of Human Services as lead agency for executive department programs only;
- (2) Adding an appeals process for unsuccessful bidders who want reconsideration of a decision by the master contractor;
- (3) Providing that the Neighborhood Justice Center do the mediation since they are experienced in mediation and usually provide services free of charge. They receive funding from the Aloha United Way and the Judiciary; and
- (4) Making technical changes for the purposes of clarity and style which do not affect the substance of the bill.

Your Committees on Judiciary and Health and Human Services are in accord with the intent and purpose of S.B. No. 3367, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 3367, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 2041 Housing and Hawaiian Programs on S.B. No. 769

The purpose of this bill is to establish a "bill of rights" for persons seeking or dependent upon public housing and to establish a simple, informal procedure to facilitate the settlement of grievances between tenants and public housing officials.

Your Committee finds that persons who seek or occupy public housing dwellings are very often physically, mentally, or economically disadvantaged. These people have little or no resources and feel that they are sometimes subject to arbitrary and capricious judgments and policies of public housing officials who appear to have little regard for their needs. The provisions of this bill seek to remedy this situation and provide these people with a means of reporting and settling their grievances against public housing officials.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of S.B. No. 769 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2042 Housing and Hawaiian Programs on S.B. No. 2295

The purpose of this bill is to prohibit the establishment of a condominium property regime on leasehold property after January 1, 1993.

It is the intent of this bill to clarify problems confronted by residential lessees which causes them to lose their leasehold equity and causes difficulty in selling or financing residential leasehold property.

Your Committee has amended this bill to allow the development of leasehold condominium property regimes if certain qualifications are met. Specifically, the amendments provide that the recorded declaration state that the lease contract set forth the annual lease rent amount for the life of the lease; that the lease contract grant to the lessee the option to purchase the fee; and that the lease contract set forth that at the expiration of the lease, the lessor shall either extend the lease for ten years or purchase the condominium from the lessee. This applies to all regimes filed after June 30, 1992.

These amendments provide predictability relating to the lease rent of condominium units to which will enable such units to be more easily sold, purchased and financed.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of S.B. No. 2295, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2295, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2043 Housing and Hawaiian Programs on S.B. No. 2858

The purpose of this bill is to implement recommendations made by U.S. Department of Housing and Urban Development (HUD) and Federal National Mortgage Associations (FNMA) to the Housing Finance and Development Corporation (HFDC) relating to HFDC restrictions on buyback and owner-occupancy restrictions imposed on dwelling units developed by HFDC. Currently, certain restrictions are unacceptable to HUD and FNMA.

It is the intent of this bill to clarify that:

1. Repurchase and occupancy restrictions are extinguished upon certain transfers of title;
2. Subsequent sale or transfer of units are no longer required to be made only to "qualified residents";
3. Occupancy by purchaser is required only during the ten year restriction;
4. HFDC is authorized to amend or modify its repurchase or occupancy restrictions to comply with federal laws or regulations;
5. Certain restrictions are extinguished by a foreclosure sale; and
6. Mortgagee's failure to notify HFDC of mortgage default or intent to foreclose does not affect holder's right under the mortgage.

It is the further intent of this bill to clarify the definition of "qualified resident", that HFDC is authorized to purchase lots, as well as dwelling units, and that a buyer shall pay to HFDC its share of appreciation when applicable. This bill clarifies that restrictions terminate in subsequent transfers when HFDC releases the option to purchase a unit financed under a federally-subsidized mortgage, that certain owner-occupancy and repurchase restrictions are not applicable to purchases made before June 25, 1990, and that HFDC's right to repurchase is not effective during the required owner-occupancy period.

Your Committee finds that this administration bill is necessary to address concerns of HUD and FNMA.

Your Committee has amended this bill as follows:

Replacing "dwelling unit" or "unit" with "real property";

Deleting the lease or leasehold interest from restrictions on the transfer of the real property;

Authorizing the HFDC to amend or modify by rule the restrictions to conform to requirements set forth by federal laws or regulations. The HFDC must proceed by rule since it cannot amend or modify the Hawaii Revised Statutes by fiat even if authorized by statute since this is an invasion of the legislative domain and a violation of due process;

To make section 1 of this bill consistent with section 1 of S.B. 2863, S.D. 1, to avoid inconsistency if both bills become law;

To add a paragraph at page 7, line 10 and at page 11, line 21, which was omitted from the existing language of the bill; and

Making technical changes for clarity and style.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of S.B. No. 2858, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2858, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Nakasato.

SCRep. 2044 Housing and Hawaiian Programs on S.B. No. 2861

The purpose of this bill is to require a purchaser of a residential houselot within a development tract to be domiciled in the State of Hawaii and be an owner occupant of the residential structure on the leased land.

Currently, purchasers are able to declare an intent to reside in Hawaii to qualify to purchase the fee simple lands without actually becoming a resident of Hawaii or occupying the property purchased. Purchasers also are able to shelter ownership of other fee simple residential real property by placing that land in a land trust to qualify for a purchase under Chapter 516.

It is the intent of this bill to prevent abuses of the Land Reform Act by replacing the current requirement that a potential purchaser be a resident or have a bona fide intent to reside in Hawaii with the requirement that the purchaser be domiciled in Hawaii and actually occupy the property.

Your Committee finds that a more restrictive qualification to purchase real property is necessary to carry out the purpose and intent of the Land Reform Act.

Your Committee has amended this bill as follows:

By moving the definition of "domicile" from section 1 of the bill to section 2, where it more appropriately belongs for correct drafting;

By changing the term "fee simple lands" in section 1 of the bill to "fee simple land" to be consistent with the grammatical usage of the term in the applicable provision of the bill;

By clarifying the definition of "fee simple land" to address concerns relating to real property held in a land trust. The amendment specifies that a land trust or other trust or fiduciary arrangements are considered fee simple ownership; and

By making technical amendments for purposes of grammar and consistency.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of S.B. No. 2861, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2861, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Nakasato.

SCRep. 2045 Housing and Hawaiian Programs on S.B. No. 2863

The purpose of this bill is to establish that the Housing Finance and Development Corporation (HFDC) may develop, pursuant to Chapter 201E, Hawaii Revised Statutes, affordable rental housing projects as well as housing projects for purchase by lower income buyers.

This bill intends to clarify that the Chapter 210E definition of "qualified resident" includes a resident who demonstrates an ability to pay rent and who meets any HFDC additional requirements. It is the intent of this bill to establish that Chapter 201E applies to affordable housing units for sale and for rent.

Your Committee finds that there is a need for the development of affordable rental housing projects since many lower income residents may be unable to purchase a residence.

Your Committee has made non-substantive amendments to this bill to correct the Ramseyer format. These changes do not affect the substance of the bill. Section 1 of this bill was amended to be consistent with section 1 of S.B. No. 2858, S.D. 1, if both bills become law.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of S.B. No. 2863, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2863, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Nakasato.

SCRep. 2046 Housing and Hawaiian Programs on S.B. No. 2943

The purpose of this bill is to conform the Real Estate Transactions Law, which prohibits discrimination in housing and real estate, with the federal Fair Housing Amendments Act of 1988.

Your Committee finds that the Department of Housing and Urban Development (HUD) has notified the State that our statute is no longer substantially equivalent to federal law. Your Committee further finds that, as a result, Hawaii would not be able to enter into an agreement with HUD to conduct investigations of housing discrimination complaints.

Testimony submitted by the Hawaii Civil Rights Commission indicates that the Commission has sought and received an extension from HUD to conform state law during this Session so that the State may retain its equivalency certification. The Commission further testified that HUD has requested additional amendments to the law which the Commission submitted for consideration by your Committee. Testimony in support of this measure was also submitted by the Hawaii Association of Realtors, with a request that state law not be amended to include "age" as a protected class since federal law does not include it.

Your Committee has amended this bill by:

- (1) Adding hanai relationships to the definition of "familial status";
- (2) Adding an exemption for illegal drug abuse to the definition of "handicapped status";
- (3) Deleting all references to "age" as a protected class;
- (4) Including any organization or facility involved either directly or indirectly in real estate transactions in the prohibition relating to discrimination in multiple listing services or real estate broker's organizations;
- (5) Indicating that a religious institution may not discriminate in real property transactions if membership in the religion is restricted due to race, sex, color, marital status, familial status, ancestry, handicapped status, or HIV infection;
- (6) Adding a provision to the enforcement section which allows the commission to issue a notice of right to sue upon written request of the complainant which must be exercised within ninety days of the receipt of the notice or one year after the filing of the complaint, whichever is later; and
- (7) Making technical changes for the purposes of clarity and style which do not affect the substance of the bill.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of S.B. No. 2943, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2943, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Nakasato.

SCRep. 2047 Housing and Hawaiian Programs on S.B. No. 3098

The purpose of this bill is to void any rule or regulation in a cooperative or condominium project which prohibits the installation of a solar energy device which is properly installed and of commercial grade.

It is the intent of this bill to allow residents of Hawaii to install solar energy devices to reduce the use of other types of energy dependent upon fossil fuel for its generation.

Your Committee finds that the use of a solar energy device is a reasonable alternative to use of other types of energy which the legislature has indicated its approval of by allowing a tax credit for the installation of such systems.

Your Committee has amended the bill by making some technical revisions to the language for the sake of proper statutory drafting without change to the meaning or substance of the bill.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of S.B. No. 3098, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3098, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Nakasato.

SCRep. 2048 Agriculture and Environmental Protection on S.B. No. 2607

The purpose of this bill is to amend the State's permit requirements for hazardous waste facilities to bring them into conformance with the federal Environmental Protection Agency's (EPA) permit requirements.

Your Committee received testimony in support of the bill from the Department of Health (DOH).

Your Committee finds that the bill would remove a significant legal discrepancy between existing state and EPA permit requirements for the operation of a hazardous waste facility in the State.

Your Committee finds that the State is actively pursuing authorization from the EPA to regulate its own hazardous waste program. However, until federal approval is obtained, federal laws and regulations pertaining to hazardous waste will retain primacy in the State. Current State law does not grant interim operating status to facilities that came under permit regulation after 1980 as a result of amendments to federal law. Therefore, when approval is obtained and state law becomes controlling, certain hazardous waste facilities authorized to operate under federal law will be illegal under State law unless an amendment is enacted.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of S.B. No. 2607 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2049 Agriculture and Environmental Protection on S.B. No. 2718

The purpose of this bill is to amend Act 200, Session Laws of Hawaii 1991, to correct a drafting error that would allow the Director of Health to approve the disposal of used oil by dumping it on the ground after January 1, 1993.

Your Committee received testimony in support of the bill from the Department of Health (DOH).

This bill makes it clear that it was never the intent of the Legislature in enacting Act 200 to allow for the provisional dumping of used oil onto the ground.

Your Committee has amended the bill by extending both the deadline for adoption of rules concerning the requirements for field screening reports and the repeal date of Section 342N-30(c) until January 1, 1994.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of S.B. No. 2718, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2718, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2050 Judiciary on S.B. No. 1440

The purpose of this bill is to narrow the applicability of the constitutional requirement so that only the governor, lieutenant governor, members of the legislature, members of the board of education and appointees subject to Senate confirmation are required to swear (or affirm) that they will support and defend the federal and state constitutions and faithfully discharge their duties to the best of their ability.

Your Committee received supportive testimony from the ACLU of Hawaii, the President of the University of Hawaii, the University of Hawaii Professional Assembly, the Manoa Faculty Senate, the chairman of the History Department and, in an individual capacity, two members of the faculty of the University of Hawaii at Manoa. Your Committee also received oral testimony from Edward Seidensticker, concerning his refusal to sign the oath in 1990.

It was pointed out in several of the testimonies that the University of Hawaii brings together scholars from many different nations and cultures. Some of the faculty are not citizens of the United States. Mr. Seidensticker, who was recruited by the University of Hawaii after teaching at Stanford, Michigan, Columbia and in Japan, declined to teach at the University of Hawaii rather than sign the loyalty of oath. He was quoted, at the time, as saying that "loyalty is like love: It can be given but it can't be demanded...loyalty oaths are meaningless because disloyal people will sign them anyway." It is noteworthy that Mr. Seidensticker was an officer in the Marine Corps during World War II.

In the appropriate context, an oath of loyalty is a most solemn and significant event. Many of our citizens have made great sacrifices in the defense of our nation and the principles embodied in our national and state government deserve the fidelity of all our citizens. However, it is equally true that there should be a presumption of loyalty by all citizens.

Your Committee believes that taking the oath of loyalty is an appropriate and important event for certain public officers with special obligations and responsibilities. Their oaths should be taken with due formality, seriousness and resolve. This bill does not remove the loyalty oath required for such persons. By the same logic, the wholesale application of the requirement as one more piece of paper to be signed, as part of the pre-employment paperwork, is neither necessary nor desirable. The presumption of loyalty is enough.

Your Committee has amended the bill by explicitly requiring an oath of office for all judges. The unfortunate fact that district court judges are not currently required to be confirmed by the Senate makes this addition necessary to insure their coverage.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1440, as amended herein, and recommends that it pass Second Reading, in the form attached hereto as S.B. No. 1440, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2051 Judiciary on S.B. No. 2207

The purpose of this bill is to change the base of congressional apportionment to permanent resident population, which was the base selected by the 1991 Reapportionment Commission in the development of its plan. See 1991 Reapportionment Commission's Final Report and Reapportionment Plan (1991) ("The Final Report").

Testimony in support of this bill was submitted by the 1991 Reapportionment Commission, the League of Women Voters of Hawaii and individual commissioners.

Based on the reasons set forth on pages 23-26 of The Final Report, your Committee also supports the use of a permanent resident population base and therefore made only a technical amendment for purposes of clarity and style.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2207, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2207, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2052 (Majority) Judiciary on S.B. No. 2235

The purpose of this bill is to propose a constitutional amendment to limit the terms of all county mayors to eight consecutive years, excluding time served on the balance of a predecessor's term.

A private citizen testified in support of the bill. The Mayor of the City and County of Honolulu testified that the issue of term limitations for county mayors should be addressed in each individual county's charter.

Your Committee finds that this bill addresses a problem that results from the ineffectiveness of campaign spending limits, an issue of statewide concern. The lack of an effective campaign spending limit combines with a "strong mayor" system of county government to substantially impair the ability of challengers to seriously contest an incumbent mayor. The high cost of a serious challenge and the small chance of winning without raising huge sums, which are usually supplied only by persons with a monetary interest in decisions made by the mayor and mayoral appointees, intimidates qualified candidates and increases voter apathy. This pattern effects overall election participation which is also a matter of statewide concern.

It is instinctive to compare the neighbor island counties, which have mayoral term limits, with the City and County of Honolulu. For example, at the close of the 1991 reporting cycle, the campaign coffers of the incumbent mayors were:

Mayor Linda Lingle	\$ 2,115.67
Mayor JoAnn Yukimura	49,023.00
Mayor Lorraine Inouye	130,438.00
Mayor Frank Fasi	2,844,344.00

even adjusted to reflecting the smaller populations on the neighbor isles, the contrast is evident:

Mayor Linda Lingle:	\$.05 per registered voter
Mayor JoAnn Yukimura:	1.80 per registered voter
Mayor Lorraine Inouye:	2.33 per registered voter
Mayor Frank Fasi:	8.71 per registered voter

The current situation in the City and County of Honolulu is merely illustrative of the problem. This bill is not an attempt to "get" Mayor Fasi. As the Mayor acknowledged in his testimony, it would not affect him. He would still be eligible for two more complete terms. Thus, if the limit were ratified and he was also re-elected Mayor, in 1992, he would be eligible to run for Mayor again in 1996.

Your Committee agrees that a ratification vote on an amendment to the Honolulu Charter would be preferable, particularly since all the other counties have already imposed mayoral term limitations by their county charters. Your Committee therefore gave the Honolulu Charter Commission an opportunity to place the issue on the 1992 ballot, by amending the bill to make it effective only if the charter review commission of the City and County of Honolulu fails to include a mayoral term limit proposal on the ballot.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2235, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2235, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senators Crozier and Ikeda did not concur.

SCRep. 2053 Judiciary on S.B. No. 2252

This bill proposes to exempt real and personal property in Hawaii from attachment and execution if the underlying judgment is in favor of another state for a failure to pay that state's tax on pension and retirement benefits. The purpose of this bill is to hinder the imposition of income taxes by other states on the pension income received by individuals who formerly resided and worked in those states.

Your Committee received testimony from a private citizen in support of the bill. The Department of Taxation expressed concern that the bill may violate the full faith and credit clause under the United States Constitution and that other states may enact retaliatory legislation to deny the execution of judgments by the State of Hawaii within those states. Upon further inquiry, however, the Department stated that Arizona and Nevada have similar statutes but, to the Department's knowledge, those statutes have not been challenged or resulted in retaliatory legislation.

Your Committee finds that, as a matter of public policy, Hawaii does not tax pension and retirement benefits and therefore sees no reason to help those states that do tax pensions and retirement benefits.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2252 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2054 Judiciary on S.B. No. 2259

The purpose of this bill is to strengthen the penalties for the illegal importation of prohibited or restricted plants or animals into the State.

Many illegal animals have been confiscated in Hawaii, in recent years, including 22 snakes in 1991. This shows a need for stricter penalties in order to discourage the illegal importation of prohibited and restricted animals.

Your Committee has amended the bill by incorporating the provisions of S.B. No. 2666, S.D. 1, which was also received from your Committee on Agriculture and Environmental Protection. Since both bills amend, *inter alia*, section 150A-14, Hawaii Revised Statutes, it is appropriate to consolidate them.

The purpose of S.B. No. 2666, S.D. 1, is to allow search warrants to be obtained by the Department of Agriculture, to confiscate prohibited or restricted plants and animals, or evidence thereof, on private property. This bill also applies penalties to all prohibited animals, plants or microorganisms, without limitation to specific lists.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2259, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2259, S.D. 2.

Signed by all members of the Committee.

SCRep. 2055 (Majority) Judiciary on S.B. No. 2264

The purpose of this bill is to propose a constitutional amendment to limit state senators to three consecutive four-year terms and state representatives to six consecutive two-year terms.

The National Federation of Independent Business (NFIB/Hawaii) and a private individual supported the inclusion of legislative term limits on the ballot for the voters to decide. However, the Hawaii State AFL-CIO opposed the bill.

Your Committee reviewed the arguments presented on both sides of the issue. Supporters of term limitations stated that incumbents win a large percentage of their re-election campaigns due to voter recognition, the ability to raise large sums of money, the backing of the political party machinery and other advantages and not due to job performance or knowledge of the issues. The current system dissuades many highly qualified individuals from running for office; which, in turn, increases voter apathy. Term limitations are needed to infuse new blood and new ideas.

Opponents of term limitations argue that term limits preclude legislators from growing in office and acquiring the needed time to gain expertise on complex issues. Those with more experience can help junior legislators and can spend more time helping constituents because they can afford to spend less time campaigning. Furthermore, term limitations are unnecessary because voters can and do reject legislators.

Your Committee acknowledges that, if the playing field were level, this bill would be unnecessary. But, in reality, factors such as campaign spending have a major impact on election races. The lack of mandatory campaign limits substantially impairs the ability of nonincumbents to challenge elected officials. The fact that some incumbents spend \$35,000 to \$100,000 to run in uncontested races intimidates new candidates. The result of the high campaign cost to nonincumbents and the small chance of winning is a reduction in the number of seriously contested races. This, in turn, has increased voter apathy. It is a cycle that is undermining the entire process of representative democracy. Term limitations provide a way to attract more qualified candidates and to break that cycle.

Your Committee believes that this bill will give the voters an opportunity to weigh the benefits and detriments of term limits and, upon due consideration, choose whether or not to apply them. The limits are not so strict as to preclude legislators from developing their full potential and completing their agendas.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2264 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senators Crozier and Ikeda did not concur.

SCRep. 2056 Judiciary on S.B. No. 2330

The purpose of this bill is to apply the provisions of the Uniform Information Practices Act to the disciplinary processes used by the Judiciary in the regulation of attorneys and judges. It would greatly increase the openness of those proceedings.

Your Committee received testimony in opposition to the bill from the Judiciary, which focused on Article VI, section 5 which provides that the power to discipline judges and justices is vested in the Supreme Court. Helen Gillmore, Chairperson of the Disciplinary Board of the Hawaii Supreme Court, a Joint Committee of the Disciplinary Board and the Hawaii State Bar Association and Manuel R. Sylvester, a lay member of the disciplinary board, all testified in support of the current system and in opposition to the bill.

The Office of Information Practices testified with a technical assessment which pointed out certain deficiencies in the drafting of the bill and recommended language that would avoid unintended consequences.

Your Committee heard testimony in support of increased openness in the Judiciary's disciplinary process from Paul Alston, Esq. Mr. Alston is the immediate past president of the Hawaii State Bar Association and has served, for the past several years, as a chairperson of a hearing panel for the Office of Disciplinary Counsel of the Supreme Court.

Mr. Alston pointed out that the American Bar Association, after great study, has recommended that disciplinary proceedings against attorneys be public from the filing of a complaint through the final ruling.

Mr. Alston, speaking as an individual, opined that:

"If lawyers are to have the responsibility for professional self-regulation, they must recognize that the disciplinary process cannot be secret. The public must have access to information about the process and its results. This means, I suggest, that every bona fide complaint--and every disciplinary proceeding--should be open to the public. There is no good reason to disclose the existence of claims which the Office of Disciplinary Counsel finds are groundless or malicious, but once a finding of probable cause is made, and once the proceedings start, both the integrity of our profession and the public interest demand that the process should be open to scrutiny."

Mr. Alston urged the Committee to amend the bill to provide public disclosure of all ethics complaints which are supported by probable cause and that all disciplinary proceedings, to the final ruling, be open to the public.

Your Committee notes that Mr. Alston's recommendation is consonant with the Senate's position on disciplinary process openness, as embodied in S.B. No. 1166, S.D. 2. His candor and willingness to speak out in support of changes which are opposed by the Judiciary and the organized bar is testimony to his exceptional character. This is not said in disparagement of those who support the status quo, but in recognition of the public spirit and commitment necessary to speak out in disagreement with the organized bar and the bench.

Your Committee substantially adopted the recommendations of the Office of Information Practices. These recommendations result in the utilization of the disclosure requirement section, section 92F-12, for the placement of the amending language. Your Committee was guided by the recommendations of Mr. Alston in drafting the particular language that was inserted in section 92F-12, as a new paragraph (17). It should be noted that the new language applies to attorney discipline proceedings but not to the disciplinary proceedings involving judges and justices as these may be precluded by Article VI, section 5 of the State Constitution.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2330, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2330, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2057 Judiciary on S.B. No. 2392

The purpose of this bill is to extend the tolling of the statute of limitations provision in section 673-10, Hawaii Revised Statutes, from July 1, 1990 to July 1, 1992.

Your Committee finds that an extension delays the need for potential plaintiffs to file civil suits against the state, for breaches of trust or fiduciary duty resulting from the acts or omissions of state agents, officers and employees in the management and disposition of trust funds and resources of the Hawaiian home lands trust and the native Hawaiian trust under Article XII; until June 30, 1994. There is no substantial prejudice to the State in delaying these suits.

Your Committee does not agree "that the extension is much needed for the filing of civil suits related to pre-1988 breaches to OHA or to the department of Hawaiian homelands." (Standing Committee Report No. 1675-92). The legislature addressed individual claims which occurred prior to July 1, 1988 with the passage of Act 323-91. Chapter 673, Hawaii Revised Statutes, is prospective from July 1, 1988. (Act 395-88, Sections 3 through 5).

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2392 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2058 Judiciary on S.B. No. 2551

The purpose of this bill is to include a definition of "record" within Chapter 350, Hawaii Revised Statutes, relating to child abuse.

Your Committee agrees that it will be useful to define the term "record", as used within Chapter 350. While section 350-1, Hawaii Revised Statutes, defines the term "report", the term "record" is left undefined.

Your Committee has amended the definition of the term "record" to conform to the language of section 92F-3, Hawaii Revised Statutes. This was done because Chapter 92F is applicable to records kept by the Department of Human Services (e.g. OIP Opinion Letter Number 90-5, 1/31/90).

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2551, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2551, S.D. 2.

Signed by all members of the Committee.

SCRep. 2059 Judiciary on S.B. No. 2596

The purpose of this bill is to provide that an employee who prevails in a civil action relating to a noncompetition agreement shall be awarded reasonable attorneys' fees and costs of the suit.

A noncompetition agreement is an agreement prohibiting or limiting competition by an employee or former employee. Examples include agreements that the employee will not: (1) accept concurrent employment or acquire any interest in a

competing business during the employment relationship; (2) compete with the employer or work for a competing company for a reasonable period after the employment relationship is terminated; or (3) disclose trade secrets.

While many noncompetition agreements are not detrimental to the broad community interest in a competitive marketplace and are useful or even necessary, there is a risk of employees being abused by unnecessarily onerous and unreasonable use of noncompetition clauses in employment agreements. Employees, often, cannot afford to contest the application of an agreement. Protection is needed, because unfair employment limitations can be devastating to an employee and the employees' family.

Your Committee finds that this bill will discourage employers from filing unwarranted suits against present or former employees, encourage competition which is beneficial to consumers and promote the growth of small businesses.

Your Committee amended the bill to state the provision directly and succinctly.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2596, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2596, S.D. 2.

Signed by all members of the Committee except Senator Holt.

SCRep. 2060 Judiciary on S.B. No. 2776

The purpose of this bill is to raise the statutory annual principal fee charged by trustees of private non-charitable trusts, from 3/10 of 1% to 6/10 of 1%.

Your Committee received testimony in support of the bill from the Corporate Trustees Association of Hawaii, Limited, which outlined the rising costs of service rendered by such trusts and stated that raising the annual principal rate would bring Hawaii in line with the fees charged in other states.

The bill was amended to reflect an increase in the annual principal fee to 5/10 of 1% instead of 6/10 of 1%. Your Committee finds that increasing in fees by 60%, after a 300% increase four years ago, will place Hawaii at or near the top of states with comparable statutory trust fees.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2776, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2776, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2061 Judiciary on S.B. No. 2838

The purpose of this bill is to require (1) a separate application and permit for every firearm transaction, (2) the registration of a firearm within five days of acquisition, and (3) a ten-day waiting period on the purchase of a firearm. This bill will make the laws consistent so that acquisitions of rifles and other firearms are handled the same as those of handguns and revolvers.

Your Committee received testimony in support of the bill from the Honolulu Police Department, The League of Women Voters of Hawaii, the Firearms Control Coalition and The Public Policy Program of the Roman Catholic Church.

However, the National Rifle Association of America and the Hawaii Rifle Association opposed the bill on the ground that it places undue burden on law abiding citizens and diverts law enforcement resources away from the pursuit of criminals, many of whom obtain firearms through illegal means and therefore would not register their firearms anyway. The two associations also mentioned that a 10-day waiting requirement already exists for the issue of a firearms permit, which is good for one year.

Your Committee finds that the bill will make the laws on the purchase, registration and permit application consistent for all authorized firearms. Having uniform procedures will help simplify the registration and application procedures for both law enforcement and owners of firearms.

In addition, this bill offers greater protection to both groups. It makes it easier for owners to retrieve stolen property. After registration, if a theft occurs, the owner can document ownership of every firearm stolen. If the police recover a stolen firearm, they can return it to its rightful owners.

As for law enforcement, the benefit is obvious. Under the present law, a person can legally acquire an unlimited number of rifles per year. Police responding to a crime call at such a location presently are unable to gauge the danger that lies ahead. The bill also makes it easier for law enforcement to clamp down on illegal acquisitions, since legal acquisitions are more easily accounted for.

Your Committee believes that this bill will assist law enforcement in accounting for all firearms in the community and aid the rightful owners in retrieving valuable property -- both of which may help to increase the community's confidence and trust in law enforcement officers and law-abiding gun owners.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2838 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2062 Judiciary on S.B. No. 3157

The purpose of this bill is to amend section 291-5, Hawaii Revised Statutes, to establish the admissibility of relevant blood alcohol evidence in a prosecution for driving under the influence of intoxicating liquor when the blood alcohol test is not performed within three hours.

In its current form, section 291-5 establishes certain principles regarding the admissibility of blood alcohol tests. It is read in conjunction with section 321-161, Hawaii Revised Statutes, under which the director of health is mandated to establish a statewide program for blood alcohol testing including rules which establish, among other things, minimum qualifications for testing personnel and test procedures.

Section 291-5(a) provides that a test result of .10, obtained pursuant to an approved test taken within three hours of a driving under the influence violation, is deemed to be competent evidence that the defendant was under the influence at the time of the incident. Evidence of a particular blood alcohol level obtained in compliance with these requirements is admissible per se, without having to adduce medical testimony of what the defendant's blood alcohol level was at the precise time of the offense and without having to lay a foundation as to all of the scientific principles on which the testing equipment operates so long as the analysis or technique has been approved pursuant to section 321-161.

Section 291-5(b) establishes certain evidentiary presumptions based upon particular blood alcohol results, and section 291-5(c) clarifies that subsection (b) does not preclude the introduction of other competent evidence bearing on whether or not the defendant was under the influence at the time of the incident.

In support of the bill, the Department of the Attorney General, Department of Transportation, Honolulu Department of the Prosecuting Attorney, Honolulu Police Department, and Mothers Against Drunk Driving testified that this bill proposes to eliminate loopholes created as a result of the Judiciary's interpretation of section 291-5(a). Under the Judiciary's interpretation, if approved tests taken within three hours are deemed to be competent, then the converse is also true, that tests taken more than three hours after the incident are incompetent and therefore inadmissible.

The proponents stated that there are circumstances where the police are unable to obtain a blood test within the three-hour limit; for example, (1) the defendant is seriously injured or feigns injury and can not be given the test until after being released from the hospital; or (2) the defendant has fled the accident scene and cannot be immediately located. Under this narrow interpretation, results from tests taken within the three-hour limit that are otherwise reliable but do not meet the Health Department's rules could also be excluded.

The Office of the Public Defender expressed, among other things, the concern that the bill requires only that the evidence be relevant, which is not the same as competent. At a minimum, the evidence should meet the requisite standards for reliability and validity as with all other scientific results.

Your Committee finds that more clarification is needed to properly guide the courts in the application of section 291-5, which is intended to streamline the presentation of evidence by eliminating foundational requirements and the need for extrapolation evidence under certain circumstances. Clearly, it makes no sense to interpret the language to preclude the use of relevant and competent evidence that is otherwise admissible under the Hawaii Rules of Evidence. Furthermore, your Committee has reviewed the legislative history of the section dating to its original enactment and finds nothing to indicate that the Legislature intended to limit other competent evidence.

Your Committee, therefore, amended the bill to maintain within subsections (a) and (b) those references to tests performed within three hours of the alleged violation. These provisions permit introduction of evidence obtained within three hours of the alleged violation without having to produce extrapolative evidence relating the blood alcohol result back to the time of the offense. Instead, your Committee amended subsection (c) to clarify that nothing in section 291-5 should be construed to preclude the use of evidence that would otherwise be admissible under the Hawaii Rules of Evidence. Your Committee believes that these amendments are consistent with both the Hawaii Rules of Evidence and the intent of section 291-5.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 3157, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3157, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2063 Judiciary on S.B. No. 3306

The purpose of this bill is to modify the requirements for the release of records of persons with human immunodeficiency virus (HIV) infection, AIDS related complex (ARC), or acquired immune deficiency syndrome (AIDS). Current law permits the release of records to the Department of Health where necessary to protect the general public, provided that the patient is not identified, but does not specify whether persons with whom the patient has had potentially transmitting contact can be notified. Your Committee finds that notifying an infected person's intimate contacts of the possibility of their having the disease is in the public interest and in the interest of the individuals who are contacted.

It is the intent of this bill, as amended, to allow physicians to inform the Department of Health of an infected person's contacts. The identity of the patient is not disclosed.

Your Committee amended the bill to remove an inadvertent repetition of a line of text.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 3306, S.D. 1, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3306, S.D. 2.

Signed by all members of the Committee.

SCRep. 2064 Judiciary on S.B. No. 3354

The purpose of this bill is to address the reported pattern of harassment known as "stalking", where the perpetrator repeatedly calls, follows, annoys, or threatens a victim. The bill also addresses facsimile transmissions, which have become a common method of communication that can be abused.

This bill proposes to (1) impose a greater sanction for a pattern of harassment, (2) clarify that a person can commit the offense of harassment with a single communication if made anonymously, at an extremely inconvenient hour, or in offensively coarse language for the purposes of harassing, annoying, or alarming another, and (3) expand the definition of harassment to include harassment with facsimile transmissions and surveillance of another person that serve no legitimate purpose.

Your Committee received testimony in support of the bill from the Honolulu Police Department, the Hawaii State Commission on the Status of Women, the Hawaii State Coalition Against Sexual Assault, The Sex Abuse Treatment Center, HOPE for Battered Women, Child and Family Service, the Domestic Violence Clearinghouse, Hawaii Women Lawyers and Sex Abuse Interventions. The Department of the State Attorney General supported the bill but suggested amendments to make it consistent with the terminology and structure of similar offenses under the Hawaii Penal Code.

The Public Defender and the American Civil Liberties Union objected to the bill on the grounds that it is unconstitutionally vague and overbroad, that the state of mind required to prove harassment in the first degree is inconsistent with the Hawaii Penal Code, and that a remedy is already available to victims of harassment under section 604-10.5, Hawaii Revised Statutes.

Your Committee finds that the current harassment law does not adequately protect victims of harassment. Its scope is underinclusive and the penalties are insufficient as deterrent measures. To be effective, the law must be broadened to protect victims from those who engage in conduct for the purpose of or in reckless disregard of the risk of harassing, annoying or alarming others. Although constitutional interpretation is the responsibility of the courts, your Committee believes that the conduct proscribed by this bill, together with the requisite state of mind, is not a constitutionally-protected activity.

Your Committee amended the bill to clarify the definition of "facsimile", expand the definition of harassment to include provoking anxiety by insults, taunts and challenges, and conformed the language with that used in the Hawaii Penal Code.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 3354, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3354, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2065 Judiciary on S.B. No. 3482

The purpose of this bill is to modify the tort law applicable in civil cases brought against child care providers licensed or accredited pursuant to state law. It does not modify the law concerning intentional torts.

Your Committee received testimony in support of the bill, in some cases supporting only certain provisions of the bill, from the Governor's Office of Children and Youth, the Hawaii Tort Reform Coalition, the Chamber of Commerce of Hawaii, Hawaii Kids At Work, and the Business/Child Care Connection. Opposing testimony was received from the Hawaii Academy of Plaintiff's Attorneys.

This bill poses a difficult choice for policymakers. Your Committee's desire to encourage the development of adequate childcare alternatives for Hawaii's two-income families argues for support of this bill. Your Committee's desire to assure that injured children are adequately compensated for injuries resulting from the tortious conduct of others argues against this bill. In the absence of any ability to quantify the benefits and detriments of the bill, your Committee is left with no easy answers.

Your Committee has amended the bill:

- (1) by deleting the short title and chapter designation and reformatting the bill as amendments to Chapter 663, Hawaii Revised Statutes,
- (2) by eliminating the applicability provision, which does not appear to be necessary,
- (3) by eliminating the provision which reduces an award by the amount of collateral source compensation,
- (4) by eliminating the statute of limitations provision, the import of which was somewhat confusing to the parties testifying and the necessity for which is questionable,
- (5) by eliminating the section on non-profit organizations, since the Committee would like to encourage the development of for-profit as well as non-profit child care alternatives,
- (6) by adding a requirement that the insurance commissioner study the availability and affordability of liability insurance for childcare providers and report to the 1994 session of the legislature on the salutary effects, if any, of this bill and on other alternatives to reduce the cost of liability insurance and increase its availability to childcare providers,

(7) the remaining sections (-2 Definitions and -4 Joint and several liability excluded; exceptions) have been combined into a single new section of Chapter 663, Hawaii Revised Statutes. The provisions abrogating joint and several liability have been amended to exclude the intentional or negligent conduct of employees. The torts of employees shall be covered under traditional tort law. The same is true for torts committed by children who are enrolled in the childcare program and parents of enrolled children.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 3482, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3482, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2066 Science, Technology and Economic Development on S.B. No. 1526

The purpose of this bill is to exempt persons who install shared telecommunications services in hotel complexes, and telework centers, from regulation by the public utilities commission (PUC).

Your Committee finds that shared telecommunications services in Hawaii would benefit general economic development in Hawaii by affording the hotel industry to provide state-of-the-art telecommunications which would keep the tourist industry competitive in the global market. Shared telecommunications services would also provide telework centers with an advanced, cost effective, and efficient manner in which to provide the services necessary to promote teleworking in the State. Your Committee finds that shared telecommunications services are currently operating successfully in other states, including the State of Washington.

Although your Committee received testimony both in support and against the enactment of this bill, all the testimony unanimously agreed there was no objection to having shared telecommunications services in Hawaii. Testimony received in opposition voiced two concerns: (1) the ambiguous nature of the categories of persons exempt from regulation by the PUC due to the lack of definitions of "telework center" and "hotel complex"; and (2) the lack of final rules required to have been adopted by Act 49, Session Laws of Hawaii 1990, by the PUC that would govern shared telecommunications services. Your Committee has addressed these concerns by amending this bill to include definitions of "telework center" and "hotel complex", and by providing that this Act will not take effect if the PUC adopts rules according to chapter 91, Hawaii Revised Statutes, before September 30, 1992. Further, your Committee has added a definition of shared telecommunications services for clarification.

Your Committee on Science, Technology and Economic Development is in accord with the intent and purpose of S.B. No. 1526, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1526, S.D. 2.

Signed by all members of the Committee.

SCRep. 2067 Science, Technology and Economic Development on S.B. No. 2466

The purpose of this bill is to allow a provider of telecommunications equipment to install and operate equipment which will allow public access to telephone utility.

Your Committee finds that this bill would make it easier for a telecommunications equipment provider to connect onto the phone company's network without having to apply for a certificate from the public utilities commission.

Your Committee has amended the bill to clarify the circumstance under which a provider would not need to apply for a certificate of public convenience and necessity. Your Committee has also amended the bill by adding a sunset provision.

Your Committee on Science, Technology and Economic Development is in accord with the intent and purpose of S.B. No. 2466, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2466, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2068 Science, Technology and Economic Development on S.B. No. 2468

The purpose of this bill is to allow the Department of Land and Natural Resources to participate on behalf of Hawaii with the other western states in a joint liaison program with the Center for Ocean Analysis and Prediction of the National Oceanic and Atmospheric Administration.

Your Committee finds that the State's participation in this valuable federal program would serve to open communication and cooperation between the federal government and the western states as to sharing data and information concerning the use and management of our precious ocean resources.

Your Committee has amended the bill by including the provisions in the statutes instead of the session laws, because this is a permanent law.

Your Committee on Science, Technology and Economic Development is in accord with the intent and purpose of S.B. No. 2468, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2468, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2069 Consumer Protection and Business Regulation on S.B. No. 2296

The purpose of this bill is to reduce the incidence of deceptive advertising in new motor vehicle sales by limiting the types of representations which can legally be made.

Your Committee has received testimony on the bill from the Department of Commerce and Consumer Affairs and the Hawaii Automobile Dealers Association. Both supported the bill, but recommended more stringent requirements be included.

Your Committee finds that advertisements for new motor vehicle sales often contain statements and terms which cannot readily be understood by consumers. These statements and terms may give the consumer the impression of understanding when in fact only those with inside knowledge of the auto industry know what is actually being said. That being the case, your Committee finds the use of these advertised statements and terms to be deceptive.

Your Committee has amended the bill to disallow the use of the term "invoice price," whether or not there is any disclaimer, and prohibited several other terms which it finds especially troublesome. Other terms can be used only in appropriate circumstances. In particular, the term "guarantee" has been used in connection with advertising slogans such as "we guarantee the lowest prices." While some may take the position that such slogans should be considered puffery, your Committee feels that they go beyond mere puffing and are in fact material representations on which a consumer should be entitled to rely. Thus, that type of promise, and similar advertising terminology, is taken out of the advertising realm and required to be made part of the written contract.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 2296, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2296, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2070 Consumer Protection and Business Regulation on S.B. No. 2676

The purpose of this bill is to strengthen the State's Insurance Code by amending it to meet the national accreditation standards of the National Association of Insurance Commissioners (NAIC) and to provide for enhanced regulatory scrutiny and safeguards to better protect policyholders from the financial hardship and trauma of insurer insolvency.

Testimony in support of the measure was received from the Department of Commerce and Consumer Affairs (DCCA) and the National Association of Independent Insurers.

Your Committee finds that the failure of companies such as Executive Life Insurance Company and Mutual Benefit Life Insurance Company in recent years has underscored the need for increased scrutiny and examination of insurance companies. Your Committee believes that the provisions of the bill will bring the State's Insurance Code into compliance with national standards established by the NAIC and provide the increased vigilance necessary to prevent future insurance company failures from occurring.

The bill, consisting essentially of six parts:

- (1) Requires the disclosure of certain producer/insurer information and holds a producer liable if it contributes to the insolvency of the insurer;
- (2) Establishes additional requirements and oversight mechanisms when a holding company acquires an insurance company;
- (3) Defines the term "Managing General Agent" and establishes provisions for regulating MGA's;
- (4) Establishes licensing, accreditation, and reporting requirements for reinsurance carriers;
- (5) Establishes licensing and contract requirements for reinsurance intermediaries and authorizes the Insurance Commissioner to examine their records and hold them liable for violating the provisions of the Act; and
- (6) Requires alien reinsurers to file with DCCA a certified annual financial report.

Based on the testimony submitted by DCCA, your Committee has amended the bill by inserting language which was inadvertently left out and correcting incorrect references in the original draft of the bill. Your Committee has also made technical amendments which have no substantive effect.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 2676, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2676, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2071 Consumer Protection and Business Regulation on S.B. No. 3109

The purpose of this bill is to require insurers or self-insurers of U-drive vehicles to extend their insurance coverage to any person driving the insured vehicle with the permission of the person renting it.

Your Committee heard testimony in support of this measure from the Department of Commerce and Consumer Affairs, SIDA of Hawaii, Inc., and Makena-Kihe'i Taxi, Ltd.

Your Committee finds that the current law governing insurance coverage for rental motor vehicles is discriminatory and subject to loop-holes which permit rental companies to avoid coverage in circumstances where one would expect it. This bill would help to alleviate this problem by providing insurance coverage in a situation where the ordinary consumer would reasonably expect coverage.

Your Committee has made two technical, nonsubstantive amendments to the bill for purposes of clarity.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 3109, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3109, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2072 (Majority) Consumer Protection and Business Regulation on S.B. No. 3220

The purpose of this bill is to clarify the insurance contract laws relating to the interest of the insured.

Your Committee has amended the bill by deleting its contents and inserting provisions that would prohibit the use of any HIV-related testing for health insurance purposes.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 3220, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3220, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senator Koki did not concur.

SCRep. 2073 Consumer Protection and Business Regulation on S.B. No. 3359

The purpose of this bill is to establish procedures for negotiating lost, destroyed, or stolen cashier's checks, teller's checks, and certified checks.

Your Committee has adopted the amendments to the bill proposed by the Hawaii Food Industry Association by deleting its content and inserting new provisions similar to that of section 490:3-505.5, Hawaii Revised Statutes, which was repealed on January 1, 1992. This section provided for civil damages against writers of dishonored checks equal to \$100 or triple the amount for which the check was drawn, whichever was greater, provided that the damages did not exceed \$500.

Your Committee finds that the bill as amended would allow businesses to address the problem of dishonored checks through the civil rather than criminal process, thereby saving time and reducing costs to the criminal justice system. The bill would also serve as a deterrent to writers of dishonored checks who attempt to use the present system to their advantage at the expense of other check writers.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 3359, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3359, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2074 Consumer Protection and Business Regulation on S.B. No. 3360

The purpose of this bill is to clarify the actions of the lessee that will trigger the lessor's remedies under Sections 490:2A-524 and 490:2A-529 of the Hawaii Revised Statutes.

Your Committee finds that the current provisions relating to defaults on leases are in need of clarification.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 3360 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2075 Consumer Protection and Business Regulation on S.B. No. 3458

The purpose of this bill is to clarify the law relating to offers and rejections of uninsured and underinsured motorist insurance coverages.

The bill adds a new section to Article 10C of Chapter 431, Hawaii Revised Statutes, which would:

- (1) Require the Insurance Commissioner, prior to October 1, 1992, to develop and distribute to all insurers appropriate forms for offers and rejections of uninsured and underinsured motorist coverages, which would include a description of the coverages, an explanation of the consequences of rejection, the premiums saved upon rejection, and a space for the signature of the insured;

- (2) Create a conclusive presumption that the insured was informed of and understood the contents of the form if the form substantially complies with the section's requirements and is signed by the insured;
- (3) Provide that, if a policy does not provide for uninsured or underinsured motorist coverage and the insurer cannot produce a signed rejection form, then coverage will be implied in an amount equal to the minimum now required by Section 431:10C-301;
- (4) Exempt insurers from liability for damages if they substantially comply with the section unless wilful misrepresentation or fraud can be shown;
- (5) Make the terms of any policy containing an offer and rejection substantially complying with the section binding on the insured for the life of the policy and any continuation, renewal or reinstatement thereof; and
- (6) Exclude policies providing only excess or umbrella coverage, or coverage limited to contingent liability arising from the use of a non-owned vehicle, from the coverage of Section 431:10C-301.

Due to the concerns within the insurance industry arising from the recent Hawaii Supreme Court opinion in Mollena v. Fireman's Fund Insurance Company of Hawaii, your Committee finds it appropriate to define by statute the requirements applicable to offers and rejections of uninsured and underinsured motorist coverages, and therefore favors this bill.

Upon consideration, however, your Committee finds that, given the rule making requirements of Chapter 91, the deadline of October 1, 1992 will not allow adequate time for the Commissioner to develop and distribute the offer and rejection forms. Accordingly, the bill has been amended to substitute the date of January 1, 1993.

Your Committee is concerned with the provisions of the bill that create a conclusive presumption of consumer understanding and exempt insurers from liability upon "substantial" compliance with the section's form requirements. As your Committee believes that these provisions leave too much room for abuse and will result in decreased protection for the consuming public, it has deleted the conclusive presumption and all references to "substantial" compliance from the bill. Also, the coverage to be implied in the absence of a valid rejection form has been made equivalent to the insured's bodily injury liability coverage limit under the policy.

Your Committee has also made a number of nonsubstantive technical amendments for the purposes of clarity and style.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 3458, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3458, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2076 Consumer Protection and Business Regulation on S.B. No. 3459

The purpose of this bill is to prohibit fee-splitting among health care providers rendering service or treatment under no-fault benefits.

Your Committee finds that this bill is a cost-savings measure that has no objection from the insurance commissioner.

Your Committee has amended this bill as follows:

By including psychologists (chapter 465) under the definition of "health care provider";

By replacing the terminology "treatment authorized under this chapter" with "treatment for which no-fault benefits are provided under this chapter." The amendment is for clarity and conformity with existing statutory language in that chapter. No-fault benefits are defined under section 431:10C-103(10);

By providing that the insurance commissioner shall enforce the civil penalty provision. The statute should specify an enforcement agency and the commissioner is the logical agency. The commissioner is usually assisted by the attorney general in these matters; and

By replacing the terminology "under other State law" with "under other chapters" for proper form.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 3459, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3459, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2077 Employment and Public Institutions on S.B. No. 1916

The purpose of this bill is to make it unlawful for an employer to discriminate against an employee or prospective employee because the person engages in a legal activity off the employer's premises during nonworking hours.

For example, this bill would make it unlawful for an employer to refuse to hire an otherwise qualified applicant because he or she smokes, even though the person would not smoke at work. The sole remedy for an aggrieved party would be through a civil action for wages and benefits that would have accrued up to and including the day of judgment. The prevailing party would be awarded court costs and reasonable attorneys' fees.

Your Committee finds that an employer's authority over an employee, or to hire or not hire an individual, does not include the right to make decisions based on personal preferences or prejudices that do not affect the employer's business. This bill will protect individuals from unwarranted intrusion into their private lives or extortion by employers who would enforce their personal prejudices through unjustified restrictions on a person's employment or employability.

Your Committee, upon further consideration, has amended this bill by exempting police officers, all of whom are subject to an outside employment policy and at all times accountable for their actions and standard of conduct, whether on or off duty.

Your Committee has also made nonsubstantive technical changes for the purposes of clarity and style.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of S.B. No. 1916, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1916, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2078 (Joint) Employment and Public Institutions and Ways and Means on S.B. No. 3208

The purpose of this bill is to amend the minimum wage applied to "tipped employees" as provided in Section 387-2, Hawaii Revised Statutes.

Current law allows employers of tipped employees to pay up to twenty cents per hour below the prevailing minimum wage as long as the wage and tips add up to at least fifty cents more than the minimum wage. This bill would delete the twenty cents provision and instead allow such employers to pay ten percent below the minimum wage.

This bill also provides that meals, board, lodging, tools, uniforms, parking fees, and other facilities and supplementary benefits provided to a tipped employee shall not be included as wages.

Your Committees believe that as a matter of public policy, all employees in this State, whether "tipped" or not, should benefit from statutory raises in the minimum wage. However, your Committees are not convinced that this bill is consistent with that policy.

In view of this concern, your Committees have amended this bill by deleting its contents and inserting an income tax credit for employer-taxpayers who disregard the minimum wage exemption. The credit would be \$100 deductible from the employer's net income tax liability for each tipped employee paid at the minimum wage; however, the employer would have to provide evidence of having paid the minimum wage to each tipped employee on whose employment the credit is being claimed. If the credit eliminates the income tax liability for a taxable year, the employer may apply the excess as a credit against future income tax liability until exhausted.

Your Committees believe that this credit will encourage many employers to increase wages of tipped employees, in furtherance of the efforts of your Committees to increase the earning potential of workers whose living standards and purchasing power have historically been, for the most part, determined by the generosity of customers rather than their employers.

Your Committees on Employment and Public Institutions and Ways and Means are in accord with the intent and purpose of S.B. No. 3208, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 3208, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 2079 Tourism and Recreation on S.B. No. 2737

The purpose of this bill is to provide procedures to preserve and protect the beaches and coastal areas by removing unauthorized structures on State-owned beach lands.

Your Committee heard testimony in support of this measure from the Department of Land and Natural Resources indicating that the existence of unauthorized structures on public beach and coastal areas constitutes a public nuisance not only by depriving the public of scarce beach lands but also by causing erosion to the remaining beach in the area.

Your Committee finds that the removal of these unauthorized structures on State-owned beaches and coastal areas is in conformance with the State's commitment to preserving and protecting the public's right to use and enjoy these valuable natural resources.

Your Committee has amended the bill by amending the proposed definition of "structure" to exclude any buildings such as the Waikiki War Memorial Natatorium, Camp Kailua, and other such buildings of solid or highly impermeable design.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 2737, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2737, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2080 Ways and Means on S.B. No. 2473

The purpose of this bill is to appropriate \$102,200, to the department of education to conduct a five year pilot project in the leeward Oahu departmental school district to address the problems of children exposed prenatally to drugs.

Your Committee finds that the number of infants suffering from the effects of prenatal drug exposure is on the rise in Hawaii. Evidence indicates that these children will require special assistance to ensure normal development. Early response to the needs and difficulties of these children will assist in the development of normal social, behavioral, and learning responses and abilities at the critical stage of early childhood development. The project will provide these children with some of the services they need to succeed in a regular school setting.

To facilitate further discussion on the funding necessary to carry out the purposes of the pilot project, your Committee has replaced the proposed appropriation with a blank amount. Your Committee has also made technical, nonsubstantive changes.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2473, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2473, S.D. 1.

Signed by all members of the Committee.

SCRep. 2081 Ways and Means on S.B. No. 2588

The purpose of this bill is to appropriate an unspecified sum for fiscal year 1992-1993 to the department of education to provide funding to those high schools that will not be receiving funding for vocational education programs under the Carl D. Perkins Vocational and Applied Technology Education Act, P.L. 101-392.

Your Committee finds that this bill will enable these schools to maintain on-going, comparable, high quality vocational education programs to ensure the provision of opportunities for the development of occupational competence for job entry, and to prepare students to pursue higher levels of career objectives at post-secondary institutions or through apprenticeships. The high schools that would receive appropriations provided under this bill are Olomana, Lahainaluna, Radford, Kalani, Kalaheo, Baldwin, Pearl City, Mililani, and Kaiser.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2588 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2082 Ways and Means on S.B. No. 2750

The purpose of this bill is to extend, from June 30, 1992, to June 30, 1999, the repeal date of Act 234, Session Laws of Hawaii 1986, which provides tuition waivers to University of Hawaii students who agree to pursue an academic curriculum that would qualify them to teach in Hawaii's public schools in exchange for a waiver of the tuition.

Your Committee finds that the department of education continues to experience severe teacher shortages despite the creation of a teacher incentive (tuition waiver) program in 1986. Your Committee also finds that extending the repeal date of the University of Hawaii's teacher incentive program could help to alleviate this shortage by encouraging future college-bound students to pursue careers in education.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2750 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2083 Ways and Means on S.B. No. 2752

The purpose of this bill is to repeal the ten per cent ceiling on the amount of moneys that may be expended out of the separate accounts of the University of Hawaii student activities revolving fund for flowers, leis, food, refreshments, and prizes. This bill also requires the board of regents of the University of Hawaii to adopt rules to determine the ceiling.

Your Committee finds that the current ten per cent restriction on the use of student activities funds for the purchase of flowers, food, and other items by student associations has made it difficult for these associations to support traditional activities such as graduation ceremonies, student orientation, and other social events. When applied to the relatively small balances available in certain accounts, the restriction places an unreasonable limit on the amount that can be expended for purchases of this nature in conjunction with the foregoing events. This bill will give the board of regents the flexibility to set and adjust the expenditure ceiling on a timely basis through the adoption of rules.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2752, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2084 Ways and Means on S.B. No. 2965

The purpose of this bill is to create a class VIII category in the department of education's teachers salary schedule for those teachers who have doctorates and teach subjects in their major or a related field. The bill appropriates \$100,000 for fiscal year 1992-1993 to carry out the purposes of the bill.

Act 296, Session Laws of Hawaii 1990, changed the class VII category, previously the highest classification applicable solely to teachers with doctorates, to include certified teachers who have earned at least sixty-six additional college credits. This bill creates another class to reinstate the distinction between teachers with extra credits and those who have doctorates.

Your Committee strongly supports incentives for teachers to seek continuing education and training opportunities to hone their teaching skills. Your Committee is concerned, however, that the opportunities for teachers on the neighbor islands to enroll in appropriate classes to reach class VII is more limited than teachers who reside on Oahu. Accordingly, the department of education is requested to consider the development of outreach educational programs to ensure that teachers residing on the neighbor islands have sufficient opportunities to earn credits to attain class VII ranking.

Your Committee has amended the bill by leaving the appropriation amount blank and by making technical, nonsubstantive changes for purposes of style.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2965, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2965, S.D. 1.

Signed by all members of the Committee.

SCRep. 2085 Ways and Means on S.B. No. 3004

The purpose of this bill is to appropriate \$50,000 for fiscal year 1992-1993, to remove hazardous materials from all public schools in the State.

Your Committee finds that the removal of all hazardous materials from public schools in the State is in the interest of the health, safety, and welfare of the public and should be done as soon as feasibly possible.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3004, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2086 Ways and Means on S.B. No. 3021

The purpose of this bill is to provide funding for compensation adjustments necessary to retain and attract the best coaches and athletic directors for Hawaii's public schools.

Athletics is an integral part of the educational program in the public school system. As such, it is important that the athletic directors and coaches who run the athletic program are not only competent in athletics, but also have an appreciation for, and commitment to, the academic education of student-athletes. Your Committee finds that many schools have a majority of their coaches from the community even though they would prefer having more coaches from the school staff with teaching experience and training. Many former coaches who are on school faculties left their coaching positions to work in the A+ program or to take on other better-paying part-time jobs. Fairer compensation may provide the incentive for more school faculty and staff members to assume coaching positions.

Your Committee agrees with the Committee on Education that additional funding is necessary to adequately compensate coaches and athletic directors who commit their time and services to the public high school athletic program. Your Committee has amended this bill by leaving the appropriation amount blank.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3021, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3021, S.D. 2.

Signed by all members of the Committee.

SCRep. 2087 Ways and Means on S.B. No. 3087

The purpose of this bill is to appropriate \$918,233 for fiscal year 1992-1993 for the Resources and Early Access to Learning Project (Families for R.E.A.L.) within the department of education.

Your Committee finds that the R.E.A.L. project acts as a catalyst between the various involved executive agencies which promote the delivery of student services that the department of education is not able to provide on its own.

Your Committee has amended this bill to change the total amount appropriated from \$918,233 to a blank amount and to change all the components of the appropriation from \$99,008 for the staff development team, \$148,950 for maintenance of the Wailuku and Kaneohe sites, and \$670,275 for nine additional sites, to blank amounts.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3087, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3087, S.D. 1.

Signed by all members of the Committee.

SCRep. 2088 Ways and Means on S.B. No. 3322

The purpose of this bill is to appropriate the sum of \$2,400,000, for fiscal year 1992-1993, to the department of education for the special needs of the students in the Farrington complex.

Your Committee finds that the special needs schools program was funded by the legislature at a level of \$70 per student during the 1991-1992 fiscal year and that these funds have been used to support collaborative planning activities for addressing individual school needs. This measure would provide funding for the program at a level of \$200 per student during the 1992-1993 fiscal year.

Your Committee further finds that the special needs schools program recognizes that some schools are faced with greater problems than other schools and that additional funding beyond the schools' regular per pupil allocation is needed to address the additional learning needs of the students in these schools.

Your Committee has amended this bill by changing the sum to be appropriated to the department of education from \$2,400,000, to an unspecified amount.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3322, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3322, S.D. 1.

Signed by all members of the Committee.

SCRep. 2089 Ways and Means on S.B. No. 3336

The purpose of this bill is to increase the number of tuition waivers at the University of Hawaii for Hawaiians and other minority students who are underrepresented at the university.

Your Committee finds that Hawaiians and other minorities deserve to have greater access to higher education and the financial constraints of tuition are a limiting factor in the number of minority students enrolled in the university system.

Your Committee has amended this bill by changing to an unspecified number, the:

- (1) Amount of the total units of financial aid as a per cent of full-time enrollment that is allowable;
- (2) Number of academic years for which tuition waivers would be available;
- (3) Percentage of full-time enrollment for tuition waivers which the board of regents may not exceed for each campus;
- (4) Percentage of tuition waivers to students whose presence enhances the university's role in the Pacific and Asian regions;
- (5) Percentage of tuition waivers to be awarded to Hawaiians and other ethnic minority students underrepresented at the University of Hawaii.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3336, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3336, S.D. 2.

Signed by all members of the Committee.

SCRep. 2090 Ways and Means on S.B. No. 3427

The purpose of this bill is to appropriate \$378,520 to establish a community-based education program and a mentoring pilot project for early childhood education workers.

Your Committee finds that quality early education childhood programs provide the best assurance that children will have the best chance to go on to complete their education and become productive members of society. There is a need for a better qualified work force in early childhood programs in Hawaii.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3427, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2091 Ways and Means on S.B. No. 3440

The purpose of this bill is to make an appropriation of \$287,000 to the department of education for swimming and water safety instruction for elementary school students.

Your Committee finds that drowning is the second leading cause of unintentional deaths in Hawaii, and approximately one-half of all ocean drowning victims are Hawaii residents. A study conducted by the city and county of Honolulu's department of parks and recreation found that seventy per cent of children ages seven to fourteen could not swim fifty yards. Testimony submitted by the department of education indicates that swimming instruction is not available at the elementary schools due to a lack of qualified instructors and proper facilities. Hawaii's Learn to Swim Coalition testified that adequate facilities and instructors currently are available within the community to implement an ongoing statewide program. However, additional funds are needed for transportation and instruction.

Your Committee recognizes the importance of providing water safety instruction in our public schools, which could be offered as a supplemental or summer session activity.

Your Committee also seeks to encourage public/private sector partnerships through educational endeavors such as the water safety and Learn-to-Swim program.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3440 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2092 Ways and Means on S.B. No. 2211

The purpose of this bill is to appropriate an unspecified sum for fiscal year 1992-1993, for the department of health to research, develop, and test new state of the art technologies for monitoring coastal water quality.

Your Committee finds that this bill will appropriate funds for:

- (1) The identification of indicator organisms, the development of new sampling and analytical methods, and the establishment of new reporting procedures, that are better suited for tropical ocean waters; and
- (2) The indexing of ciguatera and non-ciguatera toxin levels.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2211, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2093 Ways and Means on S.B. No. 2606

The purpose of this bill is to authorize and appropriate \$30,000 in general obligation bond funds in fiscal year 1992-1993 for planning and relocating livestock facilities on Oahu, including slaughterhouse, rendering plant, holding pen, and packing and processing facilities. The bill provides that the funds shall be expended by the department of agriculture and shall not lapse until June 30, 1995.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2606, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2094 Ways and Means on S.B. No. 2651

The purpose of this bill is to amend the law relating to the expenditure of public money and public contracts by:

- (1) Requiring all state road construction and paving projects that use asphalt to contain not less than two per cent crushed glass as an aggregate in the asphalt mix;
- (2) Describing specifications for crushed glass used as aggregate in asphalt;
- (3) Requiring all bid specifications for state road construction and paving projects that use asphalt to include a requirement that not less than two per cent crushed glass be incorporated as an aggregate in the asphalt mix; and
- (4) Requiring the director of transportation to adopt rules pursuant to the Hawaii Administrative Procedure Act to implement, administer, and enforce the provisions contained in this bill.

Your Committee finds that the State of Hawaii could save public moneys by substituting crushed glass, which is a low-cost recycled product, for the relatively more expensive materials currently mixed in asphalt and reduce the State's voluminous solid waste stream and extend the useful lives of Hawaii's landfills, where glass is now being disposed.

Your Committee has amended this bill by:

- (1) Specifying that the provision to require the use of glass in asphalt be added to the public works and contracts part of the law relating to the expenditure of public money and public contracts;
- (2) Specifying that the percentage of crushed glass to be used as an aggregate in the asphalt mix be measured by volume; and
- (3) Making technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2651, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2651, S.D. 1.

Signed by all members of the Committee.

SCRep. 2095 Ways and Means on S.B. No. 2717

The purpose of this bill is to amend the underground storage tanks law to meet federal requirements.

Your Committee finds that the proposed amendments to the underground storage tanks law contained in this bill are necessary to ensure consistency, clarity, and enforceability for the purpose of securing authorization for the underground storage tanks program from the United States Environmental Protection Agency. Your Committee also finds that this bill

would extend by one year the statutory life of the separate account established within the Hawaii capital loan revolving fund for the purpose of making loans to owners and operators of underground storage tanks and tank systems to replace, upgrade, close, and take a response action relating to releases from their underground storage tanks and tank systems.

Your Committee has amended this bill by making technical nonsubstantive changes.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2717, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2717, S.D. 2.

Signed by all members of the Committee.

SCRep. 2096 Ways and Means on S.B. No. 3186

The purpose of this bill is to exempt from the general excise tax amounts related to labor costs received by operators of orchards from owners of properties.

Your Committee finds that this bill would exempt from the general excise tax amounts received by operators of orchard properties from owners of orchard properties in amounts equal to those disbursed for wages, salaries, payroll taxes, insurance premiums, and benefits, including retirement, vacation, sick pay, and health benefits.

Your Committee has made technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3186, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3186, S.D. 2.

Signed by all members of the Committee.

SCRep. 2097 Ways and Means on S.B. No. 2440

The purpose of this bill is to establish an executive committee to recognize and provide for the celebration of the ninetieth anniversary of the arrival of the first Korean people in Hawaii.

Your Committee agrees with the finding made by your Committee on Culture, Arts, and Historic Preservation, that the arrival of the first Korean people to Hawaii is a significant event in the history of an ethnic group which has contributed greatly to the cultural diversity of our State and certainly worthy of formal recognition.

Your Committee has amended this bill by changing the appropriation to \$50,000.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2440, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2440, S.D. 2.

Signed by all members of the Committee.

SCRep. 2098 Ways and Means on S.B. No. 2648

The purpose of this bill is to appropriate \$4,000,000 for the construction of the Pearl City cultural center.

The cultural center funded by this bill would provide a facility that will serve the seventy-six schools in the leeward and central school districts. The facility will also be used for drama programs for the department of health's developmentally disabled and for a variety of cultural and community events.

Your Committee has amended this bill by leaving the appropriation amount blank.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2648, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2648, S.D. 1.

Signed by all members of the Committee.

SCRep. 2099 Ways and Means on S.B. No. 2649

The purpose of this bill is to appropriate \$35,000 for the training and salaries of interpretive guides for Hawaii's Plantation Village in Waipahu, Oahu.

Your Committee agrees with the Committee on Culture, Arts and Historic Preservation that the Waipahu Cultural Garden Park and its Hawaiian Plantation Village offer a unique educational experience to Hawaii's school students. The interpretive guides to be funded by this bill will allow for a more comprehensive educational experience.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2649 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2100 Ways and Means on S.B. No. 3214

The purpose of this bill is to amend section 314-10, Hawaii Revised Statutes, to allow the salary of the executive director of the Hawaii public broadcasting authority to be established jointly by the board of public broadcasting and the director of commerce and consumer affairs.

Your Committee finds that, under existing law, the salary of the executive director is set by statute and any change in amount must await the passage of executive pay legislation. Allowing the board of public broadcasting and the director of commerce and consumer affairs jointly to determine the salary of the executive director is an adequate safeguard and a flexible means of ensuring that the director's salary is commensurate with those of similar positions within the executive branch.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3214 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2101 Ways and Means on S.B. No. 3217

The purpose of this bill is to appropriate funds to the State of Hawaii endowment fund of the Honolulu symphony trust to be used for the operation of the Honolulu Symphony.

It is the intent of this bill to provide funds to be matched by an equal amount of private donations to assist the Honolulu Symphony in meeting its goal of becoming self-sufficient. This funding also will allow the symphony to continue its educational programs for Hawaii's school children and its public concert in the parks.

Your Committee has amended the bill by leaving the appropriation amount blank and by making several technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3217, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3217, S.D. 2.

Signed by all members of the Committee.

SCRep. 2102 Ways and Means on S.B. No. 2758

The purpose of this bill is to appropriate \$200,000 for payment of consultant fees by the division of consumer advocacy of the department of commerce and consumer affairs.

Your Committee heard testimony in support of this measure from the division of consumer advocacy indicating that it has been very effective in representing the concerns of consumers of lifeline services; namely electric, gas, telephone, and transportation services. Your Committee finds that in 1991 alone, the work of the division resulted in savings to consumers of over \$58,000,000.

Your Committee has amended the bill by decreasing the appropriated amount of \$200,000 back to the original amount of \$125,000.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2758, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2758, S.D. 2.

Signed by all members of the Committee.

SCRep. 2103 Ways and Means on S.B. No. 2922

The purpose of this bill is to clarify and conform the various statutes in the Hawaii Revised Statutes (HRS) relating to professional and vocational licensing.

Your Committee finds that during the 1991 legislative session, the legislature passed Act 111, otherwise known as the Uniform Professional and Vocational Licensing Act, which was codified as chapter 436B, Hawaii Revised Statutes. The passage of Act 111 completed the first phase of implementing a uniform licensing law. This bill is the second step in this ongoing effort.

The bill clarifies, strengthens, and removes redundancies from chapter 436B and conforms the various licensing chapters of the Hawaii Revised Statutes to the provisions of chapter 436B.

Your Committee has amended the bill by:

- (1) Deleting references to section 26-34, Hawaii Revised Statutes, in sections 436E-6, 438-3, 448H-3, 453-5(a), and 455-4, to make the same amendments to those chapters as those being made in the other amended chapters;
- (2) Reinserting text from sections 448F-7(b), 458-3, 459-9, 461-4, and 463-9, Hawaii Revised Statutes, that had been inadvertently omitted in previous drafts;
- (3) Deleting section 147 of the bill which makes identical amendments to section 457-8, Hawaii Revised Statutes, as section 146 of the bill;
- (4) Making technical, nonsubstantive changes for the purposes of clarity and style; and

(5) Renumbering sections of the bill accordingly.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2922, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2922, S.D. 2.

Signed by all members of the Committee.

SCRep. 2104 Ways and Means on S.B. No. 3100

The purpose of this bill is to simplify, modernize and clarify laws concerning the regulation, management, organization, and activities of state-chartered financial institutions.

Your Committee recognizes that additional time is needed for the completion of the code of financial institutions due to its scope and implications, but believes that essential enforcement powers should be given to the commissioner pending the completion of the code.

Your Committee therefore agrees with the amendments made by your Committee on Consumer Protection and Business Regulation providing the Commissioner with the ability to assess greater penalties, and with other enforcement tools that will help to ensure the safety and soundness of state chartered financial institutions.

Upon further consideration, your Committee has amended the bill by adding a savings clause, since section 2 of the bill proposes an increase in the amount of penalty to be imposed for failure to file a report within the time periods specified in section 401-11, Hawaii Revised Statutes. Your committee has also made additional amendments of a technical, nonsubstantive nature for the purposes of style and clarity.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3100, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3100, S.D. 2.

Signed by all members of the Committee.

SCRep. 2105 Ways and Means on S.B. No. 3275

The purpose of this bill is to amend the laws relating to the insurance premium tax imposed under chapter 431, Hawaii Revised Statutes, for domestic and foreign insurers.

Under this bill, all domestic and foreign insurers will pay a tax of 4.75 per cent of the gross premiums received, except for life insurance, disability insurance, title insurance and ocean marine insurance contracts. With respect to life insurance contracts, all insurers will be required to pay a tax of 2.55 per cent of the gross premiums received. As for disability insurance and title insurance contracts, the tax will be 3.5 per cent and 4.29 per cent, respectively. In the area of ocean marine insurance contracts, the tax assessed will continue to be .8775 per cent of the gross underwriting profits.

The bill requires insurers whose annual tax liability for the preceding calendar year was more than \$1,000 to pay their taxes on a quarterly basis. Those insurers whose annual tax liability for the preceding calendar year was less than \$1,000 will be allowed to pay their taxes on March 15th of each year.

The bill also provides tax credits for payments made by insurers for various employment related expenses such as unemployment insurance, workers compensation, temporary disability insurance, and Social Security taxes.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3275, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2106 Ways and Means on S.B. No. 2422

The purpose of this bill is to authorize the issuance of general obligation bonds to complete the substance abuse treatment unit at Maui Memorial Hospital and to appropriate \$3,500,000 for substance abuse treatment at Maui Memorial Hospital.

Your Committee finds that additional funding is necessary to complete this project which will serve adolescents on Maui who are presently either sent to Oahu for treatment or do not receive any treatment at all.

Your Committee has amended this bill to leave the new appropriations blank.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2422, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2422, S.D. 1.

Signed by all members of the Committee.

SCRep. 2107 Ways and Means on S.B. No. 2723

The purpose of this bill is to extend the repeal date of the governor's blue ribbon panel on health care.

Your Committee finds that the governor's blue ribbon panel on health care has spent the past six months gathering information to gain an understanding of the health care system in Hawaii, and that the critical areas within Hawaii's health care system which need to be addressed are: escalating costs, equitable distribution of resources, and effective cost

containment strategies. Your Committee further finds that the panel needs to proceed to assess the potential effectiveness of various strategies and approaches to address these areas. Therefore, your Committee agrees that the panel should be extended for an additional year to continue its work.

Your Committee has amended this bill to change the amount appropriated to a blank amount.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2723, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2723, S.D. 2.

Signed by all members of the Committee.

SCRep. 2108 Ways and Means on S.B. No. 2851

The purpose of this bill is to designate an independent entity to serve as the State's advocacy agency for persons with developmental disabilities to comply with, and as allowed by federal law.

Your Committee finds that federal law requires the advocacy agency to be allowed access to certain client records to avoid jeopardizing the State's receipt of federal funds. The State receives federal funds under the Developmental Disabilities Assistance and Bill of Rights Act of 1991 and the Protection and Advocacy for Individuals with Mental Illness Act, as amended.

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

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2851, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2851, S.D. 2.

Signed by all members of the Committee.

SCRep. 2109 Ways and Means on S.B. No. 2887

The purpose of this bill is to clarify the methodology in calculating the amount of a financial assistance grant to an eligible household.

Your Committee finds that this administration bill is needed to bring the State's standard of assistance into line with the federal poverty level by converting the annual federal poverty level to the monthly amount to determine the need standard. This bill clarifies this process by yielding a dollar and cents figure rounded down in accordance with federal law.

Your Committee has made technical, nonsubstantive amendments for purposes of clarity.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2887, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2887, S.D. 1.

Signed by all members of the Committee.

SCRep. 2110 Ways and Means on S.B. No. 2888

The purpose of this bill is to provide the department of human services with the authority to establish an imprest (advance payment) fund for work related expenses to assist Job Opportunities and Basic Skills (JOBS) participants with payment for extraordinary and emergency expenses that may arise.

Your Committee finds that this administration bill is necessary to help JOBS participants to meet immediate extraordinary expenses that cannot be paid for in a timely fashion through other payment methods. Examples are health care expenses not covered through Medicaid and the purchase of tools or equipment that would facilitate entering training or accepting an employment position.

Your Committee has made technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2888, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2888, S.D. 1.

Signed by all members of the Committee.

SCRep. 2111 Ways and Means on S.B. No. 3309

The purpose of this bill is to appropriate \$30,000 to establish a bilingual case management position within the department of human services to provide services to non-English speaking clients in the jobs opportunities and basic skills (JOBS) training program.

Your Committee finds that the JOBS program has been successful in providing education, job training, and placement to many recipients of federal Aid to Families with Dependent Children (AFDC). Your Committee further finds that most of the immigrant and refugee AFDC recipients have not been able to participate in the JOBS program because of language barriers. In order to provide equal access to the JOBS program, your Committee finds that a bilingual case manager is necessary to orient non-English speaking clients about the program.

Your Committee has made technical nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3309, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3309, S.D. 2.

Signed by all members of the Committee.

SCRep. 2112 Ways and Means on S.B. No. 1479

The purpose of this bill is to authorize the department of education and the University of Hawaii to invest in custodial accounts approved by the commissioner of securities on behalf of their employees. These institutions are already authorized to purchase annuities from certified insurers and withhold premiums from the employees' salaries.

After due consideration, your Committee has amended the bill to include provisions to enable the University of Hawaii board of regents to also establish optional retirement plans for members of bargaining units 7 and 8 and to allow coaches to join a qualified coaches retirement plan, as an alternative to participation in the employees retirement system. Your Committee finds that professional advancement for college faculty and coaches often requires periodic moves from state to state. As such, faculty members and coaches often have difficulty qualifying for benefits under Hawaii's employees retirement system due to its ten-year vesting period. This amendment is needed to assist the University of Hawaii in recruiting quality faculty and coaches.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1479, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1479, S.D. 2.

Signed by all members of the Committee.

SCRep. 2113 Ways and Means on S.B. No. 2740

The purposes of this bill are to amend the state workers' compensation law to:

- (1) Expressly exclude from coverage under the state workers' compensation law, any benefits for injuries or death incurred by members of the Hawaii national guard as a result of war or national emergencies, in the course of duty performed pursuant to federal law; and
- (2) Require, in all cases of injuries or death in which the federal government makes available compensation or benefits, that the Hawaii national guard member or the member's dependents first exhaust the available federal benefits before becoming eligible for any nonduplicative benefits under the state workers' compensation law.

Your Committee finds that the law, as interpreted by a recent state supreme court decision, currently requires the State to pay workers' compensation benefits to members of the Hawaii national guard and their dependents when these members incur injuries or death as a result of war or national emergencies, or other circumstances in the course of duty performed pursuant to purely federal control. Your Committee also finds that the law currently requires the State to pay benefits to these persons even when the federal government makes available duplicative compensation and benefits, and the benefits provided by the federal government have not been exhausted by these persons. The potentially massive payments that may be required during times of war or national emergency could jeopardize the solvency of the state workers' compensation fund.

Your Committee has amended this bill by making technical nonsubstantive changes.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2740, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2740, S.D. 1.

Signed by all members of the Committee.

SCRep. 2114 Ways and Means on S.B. No. 2891

The purpose of this bill is to authorize the department of public safety to receive private gifts of money or property to be used to carry out the purposes set forth in chapter 353, Hawaii Revised Statutes.

Previous statutory authority to receive, use, and manage private gifts rested with the department of human services; however, the transfer of corrections functions from the department of human services to the department of public safety omitted the authority to receive and utilize private gifts. This bill will enable the department of public safety to receive gifted money and property, utilize it for any of the department's purposes, subject to any terms or conditions pertaining to a gift, and provide an annual accounting to the legislature.

Your Committee finds that this bill is consistent with the intent of the legislature to transfer certain powers and prerogatives previously enjoyed by other state agencies to the department of public safety.

Your Committee has amended this bill by making technical nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2891, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2891, S.D. 2.

Signed by all members of the Committee.

SCRep. 2115 Ways and Means on S.B. No. 2894

The purpose of this bill is to provide that when a corrections officer or narcotics enforcement investigator is promoted to a corrections managerial position, that person's retirement allowance will be calculated with a split formula of two and one-half per cent for time served as a corrections officer or narcotics enforcement investigator and two per cent for the time served as a corrections manager.

Currently, a corrections officer or narcotics enforcement investigator who is promoted to a corrections managerial position loses eligibility for the two and one-half per cent retirement allowance since the law specifies that the service as a corrections officer or narcotics enforcement investigator be during the last five or more years prior to retirement. This bill supports the career opportunities of corrections officers and narcotics enforcement investigators by preserving the two and one-half retirement allowance for those who are promoted to corrections managerial positions.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2894, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2116 Ways and Means on S.B. No. 2895

The purpose of this bill is to appropriate \$807,832.17 for fiscal year 1992-1993 to be expended by the department of public safety to compensate crime victims or their service providers pursuant to chapter 351, Hawaii Revised Statutes.

Your Committee finds that the moneys appropriated will be used to compensate victims for out-of-pocket medical expenses, loss of earnings, funeral and burial expenses, and pain and suffering arising out of their victimization.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2895, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2117 Ways and Means on S.B. No. 2899

The purpose of this bill is to transfer public safety functions and personnel from the departments of education, health, human services, and the attorney general to the department of public safety.

Act 211, Session Laws of Hawaii 1989, intended to consolidate all public safety functions and employees of state government under the newly created department of public safety. At that time, however, not all public safety functions and positions could be identified and the department of public safety was directed to report to the legislature its recommendations for the transfer of additional functions and employees. This bill implements recommendations made by the department of public safety regarding the transfer of executive security officers from the department of the attorney general, security contract services of the public library system, security employees and contracts of the state hospitals, and contractual security guard services from the department of human services.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2899, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2118 Ways and Means on S.B. No. 3131

The purpose of this bill is to appropriate the sum of \$2,000,000, for fiscal year 1992-1993, for the county of Maui to establish an 800 megahertz emergency communications system on the island of Maui, subject to the availability of county matching funds.

Your Committee finds that the rural, three-island configuration of the county of Maui makes the establishment of a state-of-the-art emergency communications system essential to the success of ongoing efforts to protect the public's health, safety, and welfare. The current emergency communications system utilized by the county of Maui is outdated and contains a number of dead spots where significant communication problems exist. This bill would assist the county of Maui in establishing a state-of-the-art emergency communications system, improve the current level of service, and begin to address some of these communication problems.

Your Committee has amended this bill by changing the sum to be appropriated to the county of Maui from \$2,000,000, to an unspecified amount.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3131, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3131, S.D. 2.

Signed by all members of the Committee except Senator Aki.

SCRep. 2119 Ways and Means on S.B. No. 3372

The purpose of this bill is to replace the civil service secretary position of the employees retirement system with an exempt administrator position.

The bill provides that the administrator be appointed by, and serve at the pleasure of, the board of trustees of the employees retirement system and paid a salary set by the board within the range of deputy directors.

Your Committee has amended this bill by making technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3372, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3372, S.D. 2.

Signed by all members of the Committee.

SCRep. 2120 Ways and Means on S.B. No. 3377

The purpose of this bill is to establish a two year pilot program to develop visitor industry courses at three high schools located in districts where such programs and courses are currently unavailable. The bill also appropriates \$49,000 to be expended in fiscal year 1992-1993 by the department of labor and industrial relations for this purpose.

Similar pilot programs funded by the legislature have proven effective at Farrington and Waipahu High Schools. This bill will enable proliferation of these successful programs and courses where they are most needed.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3377 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2121 Ways and Means on S.B. No. 3383

The purpose of this bill is to appropriate \$41,136 to fund a temporary coordinator position in the department of public safety to provide staff support to the sex offender treatment team.

Your Committee agrees with the findings of the Committee on Employment and Public Institutions that the coordinator position to be funded by this bill is critical to ensuring that the statewide sex offender programs are properly and successfully implemented as provided by the master plan adopted in 1989.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3383, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2122 Ways and Means on S.B. No. 2753

The purpose of this bill is to appropriate \$900,000 for the publication of the 1992 replacement volumes to the Hawaii Revised Statutes (HRS).

Your Committee finds that the HRS volumes have not been replaced since 1985. As a result, the size of the supplements to the bound volumes have become too thick. Consolidating these two sets would be more economical and would make for easier handling. Furthermore, the present supply of HRS volumes is low and is expected to be depleted in less than two years.

At the same time, two other projects could be undertaken with regard to the HRS at no additional cost. The first would be to replace existing gender-specific language with gender-neutral language when applicable. The second would be to validate the HRS database in the SHADOW computer system presently being utilized by all legislative agencies in drafting bills.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2753 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2123 Ways and Means on S.B. No. 2324

The purpose of this bill is to appropriate \$115,000 to design and construct accident-reducing improvements to Farrington highway from Piliokoe Bridge to Ala Hema Street.

Your Committee finds that it is in the public interest to promote safety and reduce the number of accidents on our highways.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2324, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2124 Ways and Means on S.B. No. 2659

The purpose of this bill is to provide funds to construct improvements for Kawaihae harbor, in the county of Hawaii.

Your Committee finds that there is strong community support for the construction of a ninety-slip small harbor. The anticipated improvements will meet the needs of the growing community. Your Committee recognizes that there is significant construction in the area and the proposed small harbor construction will serve the needs of the community.

Your Committee has amended the bill by changing the appropriation to a blank amount and by making technical nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2659, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2659, S.D. 1.

Signed by all members of the Committee.

SCRep. 2125 Ways and Means on S.B. No. 3057

The purpose of this bill is to appropriate \$100,000 for land acquisition, planning, and construction for one or more park and ride facilities in Kailua, Oahu.

Your Committee finds that park and ride facilities are a vital component of the city and county of Honolulu's rapid transit system. Your Committee further finds that the city's plan for park and ride facilities calls for the incremental implementation of these facilities and that this appropriation will be matched by city funds.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3057 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2126 Ways and Means on S.B. No. 3058

The purpose of this bill is to authorize the issuance of general obligation bonds in the sum of \$5,000,000 for the design and construction of drainage improvements for the Sand Island Access Road.

Your Committee finds that the drainage improvements authorized in this bill for the Sand Island Access Road are necessary to correct flooding conditions in the area. This bill provides additional funds to carry out highway and drainage improvements to the area that are currently underway.

To facilitate further discussion of the funding necessary to carry out the purposes of this measure, your Committee has amended this bill by replacing the sum to be appropriated with a blank amount.

Your Committee has also realigned the appropriation period to coincide with the existing fiscal biennium, and clarified that the drainage runoffs relate to the road rather than the industrial park area.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3058, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3058, S.D. 1.

Signed by all members of the Committee.

SCRep. 2127 Ways and Means on S.B. No. 3128

The purpose of this bill is to appropriate funds for the continued operation of the Onizuka Space Center at Keahole, Hawaii. The funds will be used to hire a liaison resource teacher for the center.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3128, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2128 Ways and Means on S.B. No. 3329

The purpose of this bill is to appropriate funds for the construction of a second left turn lane onto Kamehameha highway at Castle junction on Oahu.

Your Committee agrees with the finding that construction of a second left turn lane onto Kamehameha highway at Castle junction will promote public safety by assuring better traffic flow in the area.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3329 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2129 Ways and Means on S.B. No. 3385

The purpose of this bill is to appropriate funds necessary to complete Moanalua Road improvements.

Your Committee finds that completion of this project will increase traffic capacity and is an integral part of the long-range transportation plan for the area.

Your Committee has amended this bill to change the amount appropriated* to a blank amount, and the various component amounts for land acquisition, design, construction, and inspection, to blank amounts. Your Committee has also made technical nonsubstantive amendments to reflect a grant-in-aid to the city and county of Honolulu.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3385, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3385, S.D. 1.

Signed by all members of the Committee.

SCRep. 2130 Ways and Means on S.B. No. 2417

The purpose of this bill is to appropriate \$950,000 to be expended by the department of land and natural resources in fiscal year 1992-1993 for the drilling of an exploratory well on state land near Puu Anahulu in North Kona, Hawaii.

The project will include a pump test to determine the groundwater supply potential of the area. Your Committee finds that this appropriation is necessary to complete the planned expansion of Hapuna State Park and development of other projects on Lalamilo lands.

Your Committee has amended the bill by leaving the appropriation blank.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2417, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2417, S.D. 2.

Signed by all members of the Committee.

SCRep. 2131 Ways and Means on S.B. No. 2739

The purpose of this bill is to provide stable and dedicated funding for the natural area reserve system and the forest reserve program.

The purpose of these programs is to provide a comprehensive means of involving the private sector in the protection and enhancement of Hawaii's natural areas, valuable watershed lands, and unique ecosystems by providing funds to landowners who agree to protect such natural resources and through identification, establishment, and management of natural area reserves, operation of the heritage program, and provision of matching funds. Both programs have special funds necessary to carry out their purposes.

Your Committee finds both programs to be crucial to the preservation and enhancement of Hawaii's natural resources and that both programs should be subject to the law relating to grants, subsidies, and purchases of service.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2739, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2132 Ways and Means on S.B. No. 2951

The purpose of this bill is to establish the Kaneohe Bay regional council and to appropriate the sum of \$75,000, for fiscal year 1992-1993, for the department of land and natural resources to carry out the purposes of this bill.

Your Committee finds that this bill is consistent with the intent of Act 208, Session Laws of Hawaii 1990, which was to preserve and protect Kaneohe Bay for the continued enjoyment of the general public.

Your Committee has amended this bill by:

- (1) Changing the sum to be appropriated to the department of land and natural resources from \$75,000, to an unspecified amount; and
- (2) Making technical, nonsubstantive changes.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2951, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2951, S.D. 2.

Signed by all members of the Committee.

SCRep. 2133 Ways and Means on S.B. No. 3210

The purpose of this bill is to authorize the counties to establish community infrastructure special tax districts and to finance improvements within these districts through the issuance of bonds. This bill requires the counties to set time limits for the duration of community infrastructure districts and zones. This bill also authorizes reductions in the community infrastructure special tax for landowners or lessees who are subject to the transient accommodations tax.

Your Committee finds that this bill will provide the counties with the flexibility necessary to address its infrastructure financing needs. The community infrastructure special tax districts authorized in this bill would be established in the same manner as existing improvement districts. However, an important advantage of these districts over existing improvement districts is that the revenues collected from the district could be used for the development of facilities which have a generalized benefit over a designated area.

Your Committee on Ways and Means in accord with the intent and purpose of S.B. No. 3210, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2134 Ways and Means on S.B. No. 2485

The purpose of this bill is to ensure that the office of Hawaiian affairs (OHA) realizes income from lands in the public land trust conveyed by the department of land and natural resources (DLNR) to the housing finance and development corporation (HFDC) for master planned community development.

Section 10-13.5, Hawaii Revised Statutes, provides that twenty per cent of the proceeds derived from the public land trust shall be expended by OHA for the betterment of the conditions of native Hawaiians.

This bill provides that in cases of transfers of public land trust property from DLNR to HFDC, OHA shall be entitled to twenty per cent of the fair market value of the land as determined by disinterested appraisers, plus an additional five per cent compounded annually to the date OHA receives its entitlement. OHA will also receive twenty per cent of the revenues received by HFDC for commercial use of the property, but not until HFDC recovers the amount already paid to OHA for the land under commercial use and only from revenues remaining after HFDC has met its annual debt service on bond obligations for the land.

Your Committee finds that it was the intent of the legislature, in enacting the OHA and public land trust provisions, to provide OHA with substantial revenues from transactions involving the trust. This bill is consistent with that intent in that it provides a means to determine the amount of compensation due and owing to OHA.

Your Committee finds that these transactions are likely to occur in pursuit of state objectives relating to housing, and that public policy would be obviated unless OHA is compensated fairly. This bill provides one means of prohibiting the State from circumventing legislative intent.

Your Committee has made technical, nonsubstantive amendments to the bill for purposes of clarity and style, including the removal of definitions in section 10-2, Hawaii Revised Statutes, that are not being amended, to preclude the possibility of inadvertent, unintended changes being made to those provisions.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2485, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2485, S.D. 2.

Signed by all members of the Committee.

SCRep. 2135 Ways and Means on S.B. No. 2558

The purpose of this bill is to appropriate \$2,109,000, to cover administrative costs, to establish a contingency fund, and to finance low interest loans for the development of self-help home construction projects on Hawaiian home lands in Panaewa and Keaukaha on the Island of Hawaii.

Your Committee finds that without the means to finance home construction, the families participating in the self-help program at Keaukaha and Panaewa will not have the opportunity to purchase their own homes. Many families are unable to secure adequate financing because they have neither the income nor savings to qualify for such financing. This bill will assist the department of Hawaiian home lands in its effort to provide affordable homes for its beneficiaries.

To facilitate further discussion on the funding necessary to carry out the purposes of this measure, your Committee has amended this bill by replacing the sum appropriated with a blank amount.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2558, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2558, S.D. 2.

Signed by all members of the Committee.

SCRep. 2136 Ways and Means on S.B. No. 2637

The purpose of this bill is to appropriate \$400,000 to the department of human services to establish a temporary one-stop social services center and homeless shelter at the Fort Barrette bunker, Oahu. This bill also requires that following the termination of the one-stop center and homeless shelter project, ownership of the Fort Barrette property shall revert back to the federal government.

Your Committee finds that Act 325, Session Laws of Hawaii 1990, established a social and employment services incubator project for West Oahu. One of the tasks of the project was to identify a site to provide accessible social and employment services for the people of the region. Accordingly, the site identified by the project was Fort Barrette. Fort Barrette is centrally located in this rapidly developing region of Oahu. However, the site requires extensive improvement in order to carry out the goals and objectives identified by the 1990 legislature.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2637, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2137 Ways and Means on S.B. No. 2855

The purpose of this bill is to appropriate \$43,250,000 for fiscal year 1992-1993 for the purposes of compensating the Hawaiian home lands (HHL) trust for the State's past mismanagement of that trust.

Your Committee finds that the bill provides the HHL trust with compensation for the State's past wrongful, improper or unauthorized withdrawals, transfers, takings, or uses of Hawaiian home lands which occurred from August 21, 1959 to the present.

Furthermore, your Committee believes that the bill is a significant piece of legislation which marks the end, and the beginning of a long and arduous process over past compensation due to breaches of trust by the State and the federal governments.

Upon further consideration, your Committee has made the following amendments to the bill:

- (1) Section 3 of the bill is amended by (a) reducing the appropriation from \$16,000,000 to the amount of the original appropriation, \$12,000,000, thereby reducing the total appropriation amount from \$43,250,000 to the original appropriation amount of \$39,250,000; and (b) allowing the director of the office of state planning to adopt implementing rules pursuant to the Hawaii Administrative Procedure Act; and
- (2) Technical, nonsubstantive amendments have been made for purposes of style and clarity.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2855, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2855, S.D. 2.

Signed by all members of the Committee.

SCRep. 2138 Ways and Means on S.B. No. 2868

The purpose of this bill is to establish a rental housing trust fund under the housing finance and development corporation to provide loans or grants to housing developers for the construction of rental housing units for low-income households. This bill proposes to capitalize the fund through a general fund appropriation of \$5,000,000 and revenues collected under the state conveyance tax.

Your Committee finds that because of the high cost of housing construction in the State, the housing industry in Hawaii has tended to focus on the sale of housing to that segment of the market where the highest returns are available. Unfortunately, the profit available on the construction of rental homes for the poor generally bears no comparison to returns available on the sale of luxury homes to the wealthy. To encourage construction of affordable housing in the State, an appropriate source of funds should be identified to finance loans for the construction of homes with rental prices in the affordable range.

Your Committee finds that the state real property conveyance tax law was established in 1966 to monitor real estate transactions in the State and to provide general fund revenues. Revenues from the conveyance tax are currently placed in the state general fund for use by various programs. Your Committee finds that providing loans for the construction of affordable rental housing is a productive use of the State's conveyance tax proceeds.

To facilitate further discussion on the funding necessary to implement this measure, your Committee has replaced the proposed appropriation with a blank amount. Your Committee has also made several technical nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2868, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2868, S.D. 2.

Signed by all members of the Committee.

SCRep. 2139 Ways and Means on S.B. No. 2890

The purpose of this bill is to adopt the various housekeeping amendments to the housing projects law as recommended in a study on the state rent supplement program.

Your Committee finds that the housekeeping amendments proposed in this bill are supported by the Hawaii housing authority.

Your Committee has amended this bill by correcting a technical error in drafting.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2890, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2890, S.D. 2.

Signed by all members of the Committee.

SCRep. 2140 Ways and Means on S.B. No. 3071

The purpose of this bill is to authorize the issuance of general obligation bonds for the purpose of making an appropriation to the city and county of Honolulu to purchase the Queen Emma Gardens apartments complex.

Your Committee finds that acquisition of the Queen Emma Gardens apartments complex is necessary to keep the rents payable by apartment tenants within the affordable range because the rent restrictions of the federal urban renewal program, under which the project was originally constructed, are scheduled to expire in 1996. Your Committee finds that the rental rates for tenants in the complex have been steadily rising since 1987. This bill will ensure that the rents for tenants in the complex are maintained at an affordable level.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3071 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2141 Ways and Means on S.B. No. 3247

The purpose of this bill is to appropriate \$150,000, to the Hana Affordable Housing and Community Development Corporation to cover its administrative costs, and \$2,000,000, for the design and construction of site improvements and infrastructure for a self-help affordable housing subdivision on lands donated by the Hana Ranch.

Your Committee finds that Hana is the most economically depressed area within the county of Maui. The rate of personal income for residents in the area is the lowest in the county and housing costs are the highest.

The Hana Affordable Housing and Community Development Corporation is a nonprofit corporation that has the capability of developing affordable housing in Hana. This bill is consistent with the State's policy of developing affordable housing for the people of Hawaii.

To facilitate further discussion of the funding necessary to carry out the purposes of this measure, your Committee has amended this bill by replacing the proposed appropriations with blank amounts, and by making technical nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3247, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3247, S.D. 2.

Signed by all members of the Committee.

SCRep. 2142 Ways and Means on S.B. No. 2909

The purpose of this bill is to accelerate the payment and collection of withholding income taxes, public service company taxes and bank and other financial corporation taxes for certain taxpayers.

Specifically, this bill requires that taxpayers with tax liabilities over \$100,000 pay their taxes by the tenth day instead of the fifteenth day following the calendar month the taxes were withheld and that public service companies and financial institutions with tax liabilities over \$100,000 pay their taxes on a monthly basis.

Under current law, withholding taxes are required to be paid by the fifteenth day of the calendar month following the month the taxes were withheld and taxes on public service companies and financial institutions are due on the twentieth day of the fourth month following the close of the taxable year with the option of payment on a quarterly basis. A financial audit by the legislative auditor in August, 1975, noted that under such collection schedules, the State is denied the use or benefit of moneys withheld and recommended more frequent collections.

Your Committee agrees with the department of taxation and the Tax Foundation of Hawaii that this bill, by requiring certain businesses to submit their taxes due on a monthly basis, will provide better cash management and will enable the State to maximize its interest revenues on the taxes collected.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2909 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2143 Ways and Means on S.B. No. 3464

The purpose of this bill is to treat wholesalers of services in the same manner as wholesalers of goods and products under the general excise tax by minimizing the pyramiding of taxes on services.

Your Committee finds that wholesalers of tangible goods and products in the State are assessed a .5% excise tax on their goods and products, which are then sold to retailers who are assessed an additional four per cent excise tax. The result is that the consumer pays a four and one-half per cent tax on goods and products. However, wholesalers of services are assessed a full four per cent excise tax so that, in combination with the four per cent excise tax assessed on the taxpayer engaged in business who ordered or requested the service, the consumer pays what is essentially an eight per cent excise tax on services.

Your Committee amended this bill to conform with H.B. No. 3413, H.D. 1, to clearly restrict application of the .5% excise tax to wholesalers of services rendering the services at the order or request of another taxpayer who is engaged in business and who charges another person for the same service; provided that the other taxpayer ordering the service pays the four per cent excise tax on the taxpayer's gross income.

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

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3464, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3464, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2144 Ways and Means on S.B. No. 279

The purpose of this bill is to establish a temporary state elections board to monitor the election work of the office of the lieutenant governor through the 1992 state elections.

The bill provides that the temporary board is to be composed of nine members, including the lieutenant governor or a designee, and one member each appointed by the senate president, speaker of the house of representatives, house minority leader, and the four mayors. The temporary board is to report to the legislature prior to the convening of the 1993 legislative session on the feasibility of replacing the lieutenant governor as the chief elections officer and recommending necessary statutory changes.

Your Committee has amended the bill by adding to the list of persons who will appoint a member to the temporary board, the senate minority leader. It is evident that the senate minority leader was inadvertently omitted in the S.D. 1 version of the bill since the bill calls for the appointment of nine members.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 279, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 279, S.D. 2.

Signed by all members of the Committee.

SCRep. 2145 Ways and Means on S.B. No. 1164

The purpose of this bill is to appropriate moneys to develop and implement an information system that will collect, analyze, and disseminate juvenile offender information to assist juvenile justice agencies.

Your Committee finds that a statewide juvenile justice information system is necessary to process juveniles expeditiously and efficiently in the criminal justice system and to promote and improve cooperation and coordination among agencies involved in the treatment and rehabilitation of juvenile offenders.

Your Committee has amended the bill by deleting the specific dollar amount appropriated for purposes of encouraging further discussion.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1164, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1164, S.D. 2.

Signed by all members of the Committee.

SCRep. 2146 Ways and Means on S.B. No. 2209

The purpose of this bill is to allow the Hawaii criminal justice data center to charge fees for certain services provided to nongovernment agencies or private individuals and to appropriate moneys for the hiring of permanent staff for the criminal justice data center.

Your Committee has amended this bill to reflect correct statutory language, to correct a typographical error, and to provide that the effective date of section 2 shall be July 1, 1992.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2209, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2209, S.D. 2.

Signed by all members of the Committee.

SCRep. 2147 Ways and Means on S.B. No. 2213

The purpose of this bill is to fund divorce seminar programs in each of the judicial circuits for parents and children involved in divorce.

In support of the bill, the judiciary testified that recent research shows that a large proportion of children from divorced families develop serious emotional and social problems as they enter adulthood. Parents can alleviate some of the problems if they have the basic information about what to do and what not to do during the divorce. The proposed program will provide parents with information about how to best help their children through the divorce process.

Your Committee has amended the bill by increasing the appropriation to \$72,000 to provide a divorce seminar program in each of the judicial circuits.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2213, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2213, S.D. 1.

Signed by all members of the Committee.

SCRep. 2148 Ways and Means on S.B. No. 2288

The purpose of this bill is to appropriate \$160,000 to allow the police department of the city and county of Honolulu to establish a statewide blood and saliva testing program to be expended by the department of the attorney general.

Your Committee finds that the appropriation will allow the Honolulu police department to design compatible positions within the existing personnel system, provide profiling for three hundred criminals a year, and to provide additional profiling for five hundred samples per year for the required data bank.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2288, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2149 Ways and Means on S.B. No. 2419

The purpose of this bill is to appropriate funds to pay for a special deputy attorney general to represent the Hawaii civil rights commission in a lawsuit filed by a former investigator of the Commission.

Your Committee finds that retention of an outside attorney is necessary because the department of the attorney general, which would ordinarily represent the commission, has a potential conflict of interest in this case. The department represents state agencies in lawsuits and has defended some agencies in lawsuits filed by the commission. A potential conflict of interest arises because of the possibility that the department will obtain information regarding management policies and other internal matters in this case that could be used against the commission in other cases.

Your Committee finds that the commission is entitled to representation by counsel in the same manner as other state agencies. If the attorney general is unable to represent the commission and an outside attorney is hired, that attorney should be entitled to reasonable costs and fees.

Your Committee has amended the bill by changing the appropriation to a blank amount.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2419, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2419, S.D. 1.

Signed by all members of the Committee except Senator Iwase.

SCRep. 2150 Ways and Means on S.B. No. 2809

The purpose of this bill, which is a housekeeping measure, is to add a new section to chapter 601, Hawaii Revised Statutes, which will specifically state that interest earned on court deposits shall be credited to the depositor specified in the court order; or, if not otherwise specified by court order or statute, shall be credited to the State of Hawaii. This bill will clarify the present practice in which the disposition of interest earned on funds collected by the courts, unless otherwise specified, is credited to the State of Hawaii.

Your Committee has made technical, nonsubstantive amendments to this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2809, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2809, S.D. 1.

Signed by all members of the Committee.

SCRep. 2151 Ways and Means on S.B. No. 3307

The purpose of this bill is to appropriate funds to improve the ability of the child support enforcement agency (CSEA) to administer its program by providing more positions statewide and providing additional office equipment for the new staff.

Your Committee finds that the additional staff and equipment provided to the CSEA are necessary to improve the administration of the child support enforcement program and provide better service to the public.

Your Committee has amended this bill by changing the appropriation to a blank amount.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3307, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3307, S.D. 2.

Signed by all members of the Committee.

SCRep. 2152 Ways and Means on S.B. No. 2346

The purpose of this bill is to authorize the issuance of \$135,000,000 in special purpose revenue bonds to assist Hawaiian Electric Company, Inc., and its subsidiaries, in implementing necessary capital improvements which are multi-project programs for the local furnishing of electric energy to the general public.

The savings in interest cost from the issuance of the special purpose revenue bonds for the capital improvements under this bill will result in lower electricity rates to consumers and is, therefore, in the public interest.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2346 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2153 Ways and Means on S.B. No. 2349

The purpose of this bill is to appropriate funds to complete the subdivision of the Manoa Innovation Center and to construct a six thousand square foot wing that would include a wet laboratory.

Your Committee finds that the development of high technology in Hawaii would help to diversify the State's economic base. It is anticipated that the Manoa Innovation Center will play a significant role in the growth of this industry by supporting the transfer of University of Hawaii biotechnology research to commercial products.

While in agreement with the intent of the bill, your Committee has amended sections 2 and 3 of the bill by leaving the appropriations blank.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2349, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2349, S.D. 1.

Signed by all members of the Committee.

SCRep. 2154 Ways and Means on S.B. No. 2455

The purpose of this bill is to establish a telecommunications and information technology coordination and policy council to coordinate telecommunications and information technology activities within state government. This bill appropriates a blank amount for fiscal year 1992-1993 for start up funding for the operation of the council.

Your Committee finds that the rapid technological developments in the telecommunications industry require detailed planning and coordination to implement the State's information and telecommunications policy.

Your Committee has made several technical nonsubstantive amendments for purposes of clarity and style.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2455, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2455, S.D. 2.

Signed by all members of the Committee.

SCRep. 2155 Ways and Means on S.B. No. 2939

The purpose of this bill is to authorize the issuance of \$5,000,000 in special purpose revenue bonds to assist the Wailuku River Hydroelectric Power Company, Inc., in its development of a ten megawatt hydroelectric power plant with appurtenant structures.

Your Committee finds that the legislature in 1990 and 1991 authorized the issuance of a total of \$25,000,000 in special purpose revenue bonds for this project. However, during the financing process, it was determined that the actual cost of the project will be \$30,000,000. This bill would provide for the additional \$5,000,000 needed for the project.

Your Committee finds that this project is in the public interest as it will help to reduce Hawaii's dependence on imported petroleum.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2939 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2156 Ways and Means on S.B. No. 3414

The purpose of this bill is to appropriate funds for a study to determine the feasibility of producing refuse derived fuel or other clean fuel products as alternative energy sources.

Your Committee finds that refuse derived fuel is a potential replacement for coal and oil used by sugar companies to supplement their seasonal supply of bagasse used to produce electricity. As the use of refuse derived fuel would lower the need for imported oil, it would be in the public interest to pursue this matter.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3414, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2157 Ways and Means on S.B. No. 3386

The purpose of this bill is to appropriate an unspecified sum for the identification of state recreation areas in the lower Puna district to replace those which were recently destroyed by volcanic activity.

Your Committee finds that this bill will enable the department of land and natural resources to perform studies to identify suitable recreation sites in lower Puna to replace the Harry K. Brown and Kalapana beach parks, which were recently destroyed by lava flows.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3386, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2158 Ways and Means on S.B. No. 2245

The purpose of this bill is to appropriate \$50,000 to organize and host a Pacific basin tourism conference in Hawaii in 1992.

Your Committee finds that Hawaii, as a premier resort destination in the Pacific basin, would be an ideal place to host a 1992 Pacific basin tourism conference. Hawaii can contribute to such a conference not only as a source of expertise in resort development, but can also offer specialized talents in planning, engineering, architecture, education, training, and marketing.

Your Committee on Ways and Means is in accord with the intent and the purpose of S.B. No. 2245 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2159 Ways and Means on S.B. No. 2444

The purpose of this bill is to appropriate \$200,000 for fiscal year 1992-1993 to the visitor industry education council.

The sum appropriated will be used to produce a video, prepare curriculum materials, expand a teacher/counselor internship program, and create a state-wide media campaign on the benefits of tourism. These funds will be matched by dollars and in-kind services from the visitor industry and business community.

Your Committee finds that these projects conform to the objectives of the legislature by creating a greater awareness of tourism's positive contributions to the community, and by promoting an interest in careers in the visitor industry.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2444 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2160 Ways and Means on S.B. No. 2445

The purpose of this bill is to appropriate \$70,000 as a grant-in-aid for the festival of the Pacific.

Your Committee finds that the festival of the Pacific is an important marketing event for Hawaii's visitor industry, showcasing Hawaii's rich heritage, unique customs, and multicultural environment, through visual and performing arts. The festival was specifically created in 1984 to stimulate tourism during the off-season in early June.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2445 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2161 Ways and Means on S.B. No. 2452

The purpose of this bill is to appropriate a total of \$4,000,000, as follows:

- (1) By authorizing the issuance of general obligation bonds in the sum of \$2,000,000, and appropriating the same sum to the department of transportation for fiscal year 1992-1993; and
- (2) By appropriating an additional \$2,000,000, to the department of transportation for fiscal year 1992-1993;

for the placement of utility wires, cables, and related equipment underground in the area designated by the city and county of Honolulu department of transportation services as the Diamond Head bikeway.

Your Committee finds that the placement of utility wires and cables underground in the area of the Diamond Head bikeway will ultimately improve public safety, enhance the visual quality of the Diamond Head State Monument, and benefit both residents of and visitors to Hawaii.

Your Committee has amended this bill by:

- (1) Changing the sum of general obligation bonds that may be issued and the sum to be appropriated to the department of transportation, from \$2,000,000, to an unspecified amount;
- (2) Changing the additional sum to be appropriated to the department of transportation from \$2,000,000, to an unspecified amount; and
- (3) Making technical, nonsubstantive changes.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2452, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2452, S.D. 1.

Signed by all members of the Committee.

SCRep. 2162 Ways and Means on S.B. No. 2639

The purpose of this bill is to appropriate an unspecified amount toward the construction of a recreation/sports complex in Kapolei, Oahu.

Your Committee finds that a major professional-level sports complex is necessary to assist in the State's effort to attract national and international sports events. In addition to facilitating the presentation of professional events, the complex will be a multi-purpose facility that would support large scale community programs, outdoor exhibits, concerts, fairs and carnivals, and related special events.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2639 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2163 Ways and Means on S.B. No. 2489

The purpose of this bill is to provide facilities for outrigger canoe paddling activities by appropriating \$100,000 for the relocation of the Kahului harbor canoe storage facility on Maui.

Your Committee finds that this project is in conformance with the state goal of preserving and promoting the ancient Hawaiian sport of outrigger canoe paddling. Furthermore, Kahului harbor is the only sheltered area on the northern coast of Maui where outrigger canoe paddling training and events can be conducted safely.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2489 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2164 Ways and Means on S.B. No. 2757

The purpose of this bill is to appropriate \$50,000 for the establishment of a masters rugby tournament to be held annually in Hawaii.

Your Committee agrees that the establishment of a masters rugby tournament would be a tremendous boost to Hawaii's visitor industry during a traditionally slow period. The proposed event is expected to attract thirty to fifty teams resulting in an anticipated 2,500 new visitors to Hawaii.

Your Committee finds that the long-term benefits of establishing a masters rugby tournament will be very significant for Hawaii's tourist industry and overall economy.

Your Committee has made technical, nonsubstantive amendments to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2757, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2757, S.D. 2.

Signed by all members of the Committee.

SCRep. 2165 Ways and Means on S.B. No. 3362

The purpose of this bill is to appropriate an unspecified sum to establish a lifeguard training center on Oahu.

Your Committee finds that a lifeguard training center on Oahu would provide the facilities necessary to establish programs on innovative rescue and lifeguarding techniques and other water safety classes such as the "Learn to Swim" and "Jr. Lifeguard" training programs. Your Committee believes that this facility may become the center of water safety training activities for the State as well as the entire Pacific Basin.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3362 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2166 Ways and Means on S.B. No. 2311

The purpose of this bill is to appropriate \$177,000 to the University of Hawaii to establish a laboratory and reference source facility to study microbial and viral diseases of lower aquatic animals.

Your Committee finds that such a facility would:

- (1) Provide diagnostic and research services not currently available in the State;
- (2) Organize and establish undergraduate and graduate training programs; and
- (3) Organize workshops for continuing education and practical training.

Furthermore, the existence of such a facility would assist the State's aquaculture industry in finding ways to detect and prevent infectious bacterial and viral diseases from destroying economically important lower aquatic animal crops.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2311, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2167 Ways and means on S.B. No. 3331

The purpose of this bill is to have the Bishop Museum as the State's museum of natural and cultural history conduct a biological survey that will involve an ongoing natural history inventory of the Hawaiian archipelago to locate, identify, evaluate, and maintain the reference collections of all species of flora and fauna within the State.

Your Committee agrees with the finding of your Committee on Agriculture and Environmental Protection that by having the Bishop Museum conduct a state biological survey, the State will be able to gain a head start on the national biological survey, attract federal and outside foundation funding, and bring national recognition to the efforts of the museum.

Your Committee has amended this bill by making technical nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3331, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3331, S.D. 2.

Signed by all members of the Committee.

SCRep. 2168 Ways and Means on S.B. No. 1728

The purpose of this bill is to grant independent status to the University of Hawaii at Hilo. This bill establishes a Hawaii state university, a board of regents, and a president to administer the new university.

Your Committee finds that students at the University of Hawaii at Hilo are entitled to the best possible education. To meet this standard of education, the Hilo campus of the University of Hawaii should be placed on an equal footing with the Manoa campus in terms of the power to determine its own academic and budgetary policy. Independent status for the University of Hawaii at Hilo will ensure this standing.

While it concurs with the basic intent of this bill, your Committee finds that further information is necessary prior to proceeding with the actions proposed in this measure. In this regard, your Committee has amended this bill in its entirety by replacing its substance with an amendment which directs the legislative reference bureau to perform a comprehensive evaluation on the feasibility of establishing a separate university at the Hilo campus of the University of Hawaii.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1728, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1728, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2169 Ways and Means on S.B. No. 2707

The purpose of this bill is to:

- (1) Establish school-level minor repair and maintenance accounts for the use of each public school in the State;
- (2) Exempt the department of education from having to:
 - (A) Advertise for bids; and
 - (B) Limit noncontractual expenditures to less than \$15,000;

when expending funds from school-level minor repair and maintenance accounts; and
- (3) Appropriate the sum of \$2,279,803, for fiscal year 1992-1993, to the department of education, for the implementation of the school-level minor repair and maintenance program.

Your Committee has amended this bill by:

- (1) Changing the sum to be appropriated to the department of education for fiscal year 1992-1993, from \$2,279,803, to an unspecified sum; and
- (2) Making technical nonsubstantive amendments.

Your Committee finds that this bill will enable responsible decision-makers at the school level to be more responsive to the immediate and urgent minor repair and maintenance needs in their respective school facilities.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2707, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2707, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2170 Ways and Means on S.B. No. 2980

The purpose of this bill is to appropriate \$520,000, to the city and county of Honolulu to finance archaeological research in survey area five, research and monitoring in conjunction with the master plan for Kualoa regional park, and the reinterment of sixty-five archaeological remains.

Your Committee finds that the ahupua'a of Kualoa, which is listed on the National Register of Historic Places, is a rich cultural and historic site. This bill provides the means to develop a comprehensive management plan to help preserve the cultural heritage of the region.

To facilitate further discussion on the funding necessary to carry out the purposes of this measure, your Committee has amended this bill by replacing the proposed appropriation with a blank amount. Your Committee has also deleted the sum to be expended for the reinterment of the sixty-five remains under paragraph (4) of the bill. Your Committee has also made technical amendments to clarify the intent of this measure.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2980, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2980, S.D. 2.

Signed by all members of the Committee.

SCRep. 2171 Ways and Means on S.B. No. 3400

The purpose of this bill is to appropriate \$50,000 for the public libraries to continue preservation activities on moving image mediums.

The intent of this bill is to protect and preserve moving image material and therefore provide future access to this form of historical records. Your Committee finds that moving images are important historical records that should be preserved for future generations.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3400 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2172 Ways and Means on S.B. No. 3084

The purpose of this bill is to create a temporary state history center advisory council within the department of accounting and general services for administrative purposes.

Your Committee finds that the council's purpose is to study the proposed establishment of a state history center and to report its findings to the legislature twenty days before the convening of the regular session of 1993.

Your Committee has amended this bill to:

- (1) Reduce the number of council members from eighteen to seventeen;
- (2) Require membership on the council to include one representative from business and one representative from labor;
- (3) Delete from council membership representatives from the division of state parks and outdoor recreation and the division of state historic preservation of the department of land and natural resources;
- (4) Clarify the "Hawaii state archives" as the archives division of the department of accounting and general services;
- (5) Delete the requirement for the council to confer with representatives of various federal agencies; and
- (6) Change the sum appropriated to a blank amount.

Your Committee has also made an extensive number of technical nonsubstantive amendments for the purpose of clarity and style.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3084, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3084, S.D. 2.

Signed by all members of the Committee.

SCRep. 2173 Ways and Means on S.B. No. 1145

The purpose of this bill is to include lifeguards among those members of the employees' retirement system who are entitled to special retirement privileges.

Specifically, the bill provides that members with at least ten years of credited service, of which the last five were as a lifeguard, shall have their retirement allowances based on two and one-half per cent of their average final compensation for each year of service, rather than the normal rate of two per cent applicable to other class A or class B members. Your Committee notes that this higher rate is currently afforded to firefighters, police officers, investigators in the departments of the prosecuting attorney and the attorney general, corrections officers, and narcotics enforcement investigators, even if they elect early retirement.

The bill also designates lifeguards as class A (contributory) members in the employees' retirement system, and requires them to make payments for or "buy back" contributions not previously paid.

Your Committee finds that the special retirement provisions for specific occupations is based primarily on the personal danger or stress inherent in the job. Lifeguards meet that criteria and so should be accorded the same special retirement privileges.

Your Committee has amended this bill by making a technical, nonsubstantive change.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1145, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1145, S.D. 2.

Signed by all members of the Committee.

SCRep. 2174 Ways and Means on S.B. No. 2901

The purpose of this bill is to strengthen and streamline the decision-making procedures of the criminal injuries compensation commission.

Your Committee finds that the hearing requirement is unduly burdensome for some applicants and that many cases can be decided by the administrator; provided that the case can be adjudicated appropriately on the basis of available records and documents and that the applicant has waived a hearing. Your Committee notes that there is precedent in other states for similar procedures. Your Committee also finds that the other substantive provisions in this bill will expedite the business of the commission without adversely affecting the rights of applicants under chapter 351, Hawaii Revised Statutes.

Your Committee has amended the bill as received by deleting the sentence at page 1, lines 6 through 9, requiring that one member of the commission be an attorney, and by making several technical nonsubstantive changes for purposes of style, clarity, and consistency.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2901, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2901, S.D. 2.

Signed by all members of the Committee.

SCRep. 2175 Ways and Means on S.B. No. 3317

The purpose of this bill is to encourage state agencies to recycle paper and other materials by allowing them to keep the money thus generated for agency use.

Section 342G-45, Hawaii Revised Statutes, establishes the office paper and other materials recovery program requiring compliance by all county and state agencies by June 30, 1993. This bill provides an incentive for state agencies to comply with this and other similar programs.

Your Committee finds that despite section 342G-45, an incentive is necessary to ensure compliance by all state workers. Knowing that their agency will keep and use the money from recycling would provide a tangible incentive and will help ensure the success of such programs.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3317 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2176 Ways and Means on S.B. No. 3288

The purpose of this bill is to modernize escrow practices and strengthen the regulation of the escrow industry in the State.

Your Committee finds that the bill amends chapter 449, Hawaii Revised Statutes, as a part of a legislatively-authorized project intended to modernize and recodify laws pertaining to financial institutions. Among other things, the bill strengthens administrative penalties and requires escrow companies to secure the approval of regulators in the event of a change in control.

Your Committee has amended this bill by making technical, nonsubstantive amendments for the purposes of clarity and style.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3288, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3288, S.D. 2.

Signed by all members of the Committee.

SCRep. 2177 Ways and Means on S.B. No. 2919

The purpose of this bill is to revise the manner in which financial institutions are taxed to provide for a more equitable method of taxation.

Your Committee finds that this bill corrects inefficiencies in the general excise tax law and streamlines the franchise tax imposed on financial institutions. Your Committee further finds that the bill is a means by which the taxation of financial institutions may be handled in a more equitable and updated manner and which will prepare the State for establishing a process to tax interstate banking, if the State so chooses to engage it.

Your Committee agrees with the findings made by your Committee on Consumer Protection and Business Regulation in Senate Standing Committee Report No. 1801, which are incorporated by reference.

Your Committee has amended this bill by making technical, nonsubstantive changes for purposes of style.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2919, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2919, S.D. 2.

Signed by all members of the Committee.

SCRep. 2178 Ways and Means on S.B. No. 2667

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

Your Committee has amended the bill by including:

- (1) An appropriation of \$9,311.48 for the accrued interest on Akuna v. State of Hawaii, et al, Civil No. 89-2481-08; and
- (2) An appropriation of \$125,000 for the amount of settlement for Teri M. Kimura v. State of Hawaii, Civil No. 88-124.

Accordingly, the claims listed in the bill, as amended, total \$1,357,840.08.

Your Committee has also added a new section to indicate that the appropriations made by this bill will cause the general fund expenditure ceiling to be exceeded by .0480726 per cent.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2667, S.D. No. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2667, S.D. 2.

Signed by all members of the Committee.

SCRep. 2179 Ways and Means on S.B. No. 3308

The purpose of this bill is to make an appropriation for the development and implementation of a statewide comprehensive automated child support enforcement program.

Your Committee agrees that an automated statewide child support enforcement system will reduce the percentage of non-payers, increase collections, and improve the overall administration of the program.

Your Committee has amended the bill by changing the appropriation to a blank amount.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3308, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3308, S.D. 2.

Signed by all members of the Committee.

SCRep. 2180 Ways and Means on S.B. No. 2462

The purpose of this bill is to make an appropriation for the Hui 'Imi task force to implement its recommendations to the legislature concerning the coordination of services to Hawaiians, and specifically including the establishment of self-supporting Hawaiian cultural centers on each island.

Your Committee has amended this bill by changing the appropriation to a blank amount.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2462, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2462, S.D. 2.

Signed by all members of the Committee.

SCRep. 2181 Ways and Means on S.B. No. 2638

The purpose of this bill is to ensure that the department of Hawaiian homes lands receives compensation from the transfer of former sugarcane lands as set forth in Article XII, Section 1 of the Hawaii Constitution. It is the purpose of this bill to establish a formula by which the department receives its entitlements where the housing finance and development corporation purchases land from the department of land and natural resources for a master planned community and also receives revenues from such land used for commercial purposes.

It is the intent of this bill to clarify the amount of proceeds to which the department of Hawaiian homes lands is entitled upon the transfer of sugarcane lands and to clarify that the department is entitled to revenues from the commercial use of those lands.

Your Committee finds that it was the intent of Article XII, Section 1 of the Hawaii Constitution to provide the department of Hawaiian homes lands with substantial revenues upon the transfer of former sugarcane lands. This bill is consistent with that intent in that it provides a means to calculate the amount of compensation due to the department of Hawaiian homes lands upon such transfer.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2638, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2182 Ways and Means on S.B. No. 2859

The purpose of this bill is to make low-income housing tax credits applicable to banks and financial institutions.

It is the intent of this bill to enable lending institutions which participate in the development of low-income rental housing projects to be able to utilize low-income housing tax credits. Currently, these tax credits are not available to lending institutions.

Your Committee agrees with the amendments made by your Committee on Housing and Hawaiian Programs, amending the effective date of the low-income housing tax credit to apply to the net income for the calendar year 1992, and for fiscal year taxpayers, for the fiscal year in which January 1, 1993 occurs.

Your Committee has amended this bill by making a technical, nonsubstantive change.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2859, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2859, S.D. 2.

Signed by all members of the Committee.

SCRep. 2183 Ways and Means on S.B. No. 2869

The purpose of this bill is to create a general excise tax exemption for any qualified person or firm involved in the planning, design, financing, construction, or sale of an affordable housing project by a private developer on which actual construction has been started between July 1, 1992, and December 31, 1993, and which is completed by December 31, 1994.

Your Committee finds that there is a shortage of affordable housing in Hawaii and private developers must be encouraged to meet the affordable housing crises. It is the intent of this bill to provide incentive to private developers to develop housing which is affordable to low- and middle-income families.

Your Committee has made technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2869, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2869, S.D. 2.

Signed by all members of the Committee.

SCRep. 2184 Ways and Means on S.B. No. 2783

The purpose of this bill is to appropriate \$120,000 for fiscal year 1992-1993 to the department of business, economic development, and tourism to defray the expenses of the Hanauma Bay educational program.

Your Committee finds that the Hanauma Bay educational program is funded until July 1, 1992, through a collaboration between the University of Hawaii sea grant extension service and the city and county of Honolulu's department of parks and recreation, and that funds to continue the program after July 1, 1992, have not been identified. This bill would appropriate funds to continue the program after this date.

Your Committee has amended this bill by: making technical, nonsubstantive changes; clarifying that the department of land and natural resources, rather than the department of business, economic development, and tourism, has jurisdiction over the marine ecosystem of Hanauma Bay; and designating the department of land and natural resources, rather than the department of business, economic development, and tourism, as the expending agency for the sum appropriated.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2783, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2783, S.D. 2.

Signed by all members of the Committee.

SCRep. 2185 Ways and Means on S.B. No. 3118

The purpose of this bill is to appropriate an unspecified sum to be expended in fiscal year 1992-93, for land acquisition, design, and construction of a warehousing district industrial park in Honolulu. The funds will be expended by the department of business, economic development, and tourism, with the city and county of Honolulu retaining the primary authority relating to planning and land use in connection with this project.

Your Committee finds that the limited supply of industrially zoned land and recent increases in Oahu's land prices have had an adverse impact on the cost of renting industrial space. This bill will increase the availability of warehousing located near piers and airports that businesses need to service our markets and provide the essentials of daily life.

Your Committee finds that the authority to develop industrial parks rests with the department of land and natural resources, under section 171-132, Hawaii Revised Statutes, and therefore has amended the bill to make the department of land and natural resources the expending agency.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3118, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3118, S.D. 2.

Signed by all members of the Committee.

SCRep. 2186 Ways and Means on S.B. No. 1698

The purpose of this bill is to appropriate funds for the Malama Na Wahine Hapai project, a community-based, culturally sensitive prenatal care program for pregnant women in rural areas.

Your Committee finds that this federally-funded project provides community-based, culturally sensitive prenatal care to minority women in rural areas. This project requires state funds in order to meet the demand for services throughout the State, particularly on the island of Oahu.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1698, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2187 Ways and Means on S.B. No. 2534

The purpose of this bill is to eliminate the ceiling on the amount of medical services excise tax credit allowable on a resident individual's tax return.

Your Committee finds that because of existing limits to claims for the medical services excise tax credit, taxpayers are currently not able to recover the full extent of their expenditures for medical services. This has a special impact on the elderly living on fixed incomes. Your Committee finds that about \$50,000,000 was collected in general excise taxes for medical services in 1990 but only \$12,700,000 in medical services excise tax credits was claimed, indicating room for raising the current ceilings.

Your Committee has amended this bill to reinstate the limits to the medical services tax credit as blank amounts for senior citizens and as \$200 for those under sixty-five years of age.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2534, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2534, S.D. 1.

Signed by all members of the Committee.

SCRep. 2188 Ways and Means on S.B. No. 2548

The purpose of this bill is to increase the upper limit on the tax credit for child and dependent care expenses from twenty-five to forty per cent of the applicable percentage of the employment-related expenses paid by an individual.

Your Committee finds that increasing the upper limit of this credit would assist many employees with limited incomes to remain in the workforce when faced with child or dependent care responsibilities, and will also assist in attracting employees to the health-care field, which continues to experience labor shortages in many occupations.

Upon further consideration, however, your Committee recommends that the bill be amended by providing that the amount of the child and dependent care credit that may be claimed by a resident taxpayer shall be a range of 20 to 30 per cent of employment related expenses, rather than from thirty to forty per cent of those expenses as provided in the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2548, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2548, S.D. 1.

Signed by all members of the Committee.

SCRep. 2189 (Majority) Ways and Means on S.B. No. 2421

The purpose of this bill is to adjust the respective shares of the State and counties in the revenues collected under the transient accommodations tax.

Your Committee finds that the bleak and unstable economy of the nation is reflected in the State of Hawaii's own stringent budget. Low projected revenues for 1992-1993 force the State to examine its available money resources in order to find ways to generate those needed revenues. One way to accomplish this is by increasing the percentage of revenues that the State is allowed to collect under the transient accommodations tax (TAT).

With the amendments proposed by this bill, it may at first appear that the State is refraining from its commitment to provide the counties with a dependable source of additional revenues. Such an assumption, however, may be misleading. Maui county, after all, seems to have enough revenues to be able to dole out a real property tax refund to its residents during this hard-pressed economic year. Maui county, then, would be able to afford a reduction in its TAT revenues, and if all the counties can collectively contribute to the State in this way, then the residents of every island would be able to enjoy the security of a well-maintained state budget.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2421 and recommends that it pass Third Reading.

Signed by all members of the Committee.
Senator George did not concur.

SCRep. 2190 Ways and Means on S.B. No. 2302

The purpose of this bill is to provide relocation assistance to any homeowner who meets certain eligibility criteria and who feels obliged to move away from a geothermal facility by providing for the sale of that person's home in a fair and equitable manner.

Your Committee has amended this bill by:

- (1) Deleting the provision prohibiting a person who purchased a dwelling sold under the program established by this bill from reselling that property under this program for a period of twenty years from the date of purchase;
- (2) Adding a provision:
 - (A) Requiring the department of land and natural resources to adopt rules relating to the use, sale, and transfer of dwellings purchased under the program established by this bill; and
 - (B) Giving the department of land and natural resources the right of first refusal to purchase any dwelling that was purchased under the program established by this bill, for a period of twenty years after the dwelling was purchased, at a price not to exceed the sum of:
 - (i) The original cost to the purchaser;
 - (ii) The cost of any improvements added by the purchaser; and
 - (iii) Simple interest on the original cost and capital improvements to the purchaser at the rate of one per cent a year;
- (3) Changing the provision that allows owner-occupants who:
 - (A) Purchased a dwelling before January 1, 1992;
 - (B) Reside within three thousand five hundred feet of a geothermal facility;
 - (C) Are bona fide residents of the State of Hawaii;
 - (D) Are adversely impacted by the installation of a geothermal facility after the effective date of this bill; and
 - (E) Can document these adverse impacts in accordance with the rules adopted by the department of land and natural resources;

to seek relocation assistance in accordance with the program established under this bill, the incurred costs of which are to be borne by the geothermal resource developer, by limiting the applicability of the bill to owner-occupants who purchased a dwelling before January 1, 1986, rather than January 1, 1992; and
- (4) Changing the sum to be appropriated to the department of land and natural resources for fiscal year 1992-1993, from \$500,000, to an unspecified amount.

Your Committee finds that this bill could provide for the fair and equitable sale of homes belonging to homeowners who meet certain eligibility criteria and who feel obliged to move away from a geothermal facility.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2302, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2302, S.D. 2.

Signed by all members of the Committee.

SCRep. 2191 Ways and Means on S.B. No. 2465

The purpose of this bill is to appropriate funds for the planning, design, and construction of a foreign trade zone warehouse in Hilo, Hawaii.

Your Committee recognizes the value to the State of establishing a foreign trade zone warehouse in Hilo. A foreign trade zone warehouse would expand and diversify the economic base of the county of Hawaii and the State as a whole, by bringing the benefits of duty free processing and warehousing to Big Island users, a benefit currently enjoyed only on Oahu. Establishment of a foreign trade zone warehouse would also provide additional employment opportunities to the surrounding community.

Your Committee has amended this bill by leaving the appropriation amount blank to allow further consideration on the matter.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2465, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2465, S.D. 1.

Signed by all members of the Committee.

SCRep. 2192 Ways and Means on S.B. No. 3394

The purpose of this bill is to appropriate the sum of \$216,000, for fiscal year 1992-1993, to the department of business, economic development, and tourism, for the operation of a 100 kilowatt closed-cycle demonstration ocean thermal energy conversion (OTEC) plant at Keahole Point on the island of Hawaii.

Your Committee finds that OTEC technology can provide the State with a viable source of renewable energy and decrease Hawaii's dependence on imported fossil fuels. This 100 kilowatt closed-cycle demonstration project could offer a relatively low-cost and rapid approach to providing an operating OTEC demonstration plant in Hawaii and is considered ready for development at this time.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3394 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2193 Ways and Means on S.B. No. 3407

The purpose of this bill is to promote teleworking by establishing:

- (1) A voluntary state employee telecommuting work option;
- (2) A twenty-one member telework task force; and
- (3) Appropriating \$150,000 to the department of business, economic development and tourism, to assist in implementation of a marketing plan to promote teleworking and \$150,000 to the department of personnel services to develop state telecommuting work option.

Your Committee finds that teleworking can benefit the community in many ways. Teleworking provides a unique way to conserve energy by reducing fuel consumption from commuting and shows the State's commitment to "high tech" business development. Establishing a state telecommuting work option sets an example for the rest of the business community to follow. The establishment of the multi-agency Hawaii telework task force will facilitate and encourage the acceptance of teleworking policies within the State.

Your Committee has amended this bill by changing the appropriated amounts to blank amounts to allow further consideration of this matter, and by making technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3407, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. 3407, S.D. 2.

Signed by all members of the Committee.

SCRep. 2194 Ways and Means on S.B. No. 1419

The purpose of this bill is to appropriate funds to establish a catastrophic and traumatic emergency response program on the Island of Hawaii.

Your Committee has amended this bill to appropriate \$162,200 for the continued operations of the Hawaii Disaster Medical Assistance Team (DMAT/Hi-1) as follows:

- | | | |
|--------------------------------|--|----------|
| (1) Personnel | | |
| Medical direction/consultation | | \$50,000 |
| 0.5 FTE planner position | | 17,500 |
| 0.5 FTE clerical position | | 12,500 |
| (2) Operations | | |
| Office rental | | 9,000 |
| Telephone | | 12,000 |
| Office Supplies | | 4,750 |

(3) Equipment	
50 pagers	13,750
Facsimile machine	1,200
Computer hardware and software	11,000
Paper copying machine	5,500
(4) Medical supplies	25,000

Your Committee finds that DMAT/Hi-1 was organized in response to the Aloha Airlines incident in 1988 and now consists of over ninety volunteers comprised of emergency physicians, surgeons, anesthesiologists, registered nurses, paramedics, and logistic and administrative personnel who provide local and statewide emergency medical assistance during mass casualty disaster incidents. DMAT/Hi-1 is recognized by the United States Public Health Service and the Federal Office of Disaster Affairs as a national and international medical response source.

Your Committee finds that funding is necessary for DMAT/Hi-1 to continue its operations which began on March 14, 1991.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1419, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1419, S.D. 1.

Signed by all members of the Committee.

SCRep. 2195 Ways and Means on S.B. No. 2434

The purpose of this bill is to require the legislative auditor, instead of the department of human services, to contract the annual program audit required for provider agencies dispensing assistance to the homeless under the homeless families assistance law.

Your Committee finds that the homeless families assistance law was passed in 1991 to enable the department of human services to contract with provider agencies to provide assistance to homeless families in Hawaii. Current law requires an annual audit of these provider agencies to be performed by an auditing firm under a contract with the department. This bill requires the legislative auditor, instead of the department of human services, to contract the annual audit required under the law.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2434, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2196 Transportation and Intergovernmental Relations on S.B. No. 3345

The purpose of this bill is to require the director of transportation, in regulating tour aircraft operations at state airports, to include verification that the applicant has FAA certification with regard to the number of passengers and cargo payload flown.

Your Committee finds that certification enhances safety in tour operations through higher aircraft operational and maintenance standards.

Your Committee has amended the bill by making technical, nonsubstantive changes.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 3345, as amended herein, and recommends that it pass Second Reading as S.B. 3345, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2197 Science, Technology and Economic Development on S.B. No. 2873

The purpose of this bill is to prohibit a Hawaii Strategic Development Corporation board member from participating in any decision in which the board member has a substantial financial interest rather than prohibiting the corporation from dealing with any person or entity in which any board member has any financial interest.

Your Committee finds that it is necessary to amend the conflict of interest provision relating to the Hawaii Strategic Development Corporation to give it the flexibility it requires to accomplish its mission. As the corporation's board is comprised of senior executives with years of experience and residency in Hawaii, the probability of any one of the board members having any financial interest in an organization under consideration is high.

Your Committee on Science, Technology and Economic Development is in accord with the intent and purpose of S.B. No. 2873 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2198 Legislative Management on S.B. No. 2934

The purpose of this bill is to enable all employees of the Department of Health to participate in job-sharing. The bill also relieves the Office of the Auditor of the obligation to submit status reports every year on job-sharing.

Your Committee heard testimony in support of this measure from the Director of Health, the Director of Hawaii Government Employees Association, and the Auditor.

Your Committee finds that Act 244, Session Laws of Hawaii 1989, inadvertently excluded nurses in the Department of Health from participating in job-sharing, whereas the intent was to provide job-sharing across the spectrum of public employment. This bill corrects the oversight in Act 244, and also reflects your Committee's opinion that job-sharing has been studied enough. A final evaluation report to the 1994 Legislature should be more than sufficient to determine that job-sharing serves the interests of all concerned.

Your Committee has made a technical, nonsubstantive amendment to the bill.

Your Committee on Legislative Management is in accord with the intent and purpose of S.B. No. 2934, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2934, S.D. 1.

Signed by all members of the Committee.

SCRep. 2199 Consumer Protection and Business Regulation on S.B. No. 2304

The purpose of this bill is to require real estate salespersons to disclose the susceptibility to volcanic air pollution of certain properties in the districts of North and South Kona.

Your Committee finds that the existence of volcanic air pollution, also known as "VOG", is a legitimate concern to potential residents and visitors who may be susceptible to its effects due to pre-existing lung diseases such as asthma, bronchitis, or emphysema. Your Committee further finds that VOG is a problem that on occasion affects many areas of the County of Hawaii, and is not isolated to the North and South Kona areas. Testimony submitted by the American Lung Association of Hawaii confirms that VOG is a countywide problem and is in fact more serious in West Hawaii County.

Testimony received from the Real Estate Commission indicates a concern over the amendment of section 467-14, which is the list of material facts that may be considered in the suspension or revocation of real estate licenses. The Commission suggests instead that amendments be made to section 467-31, relating to notification to prospective buyers or lessees of properties which exist within certain designated areas.

Your Committee has amended this bill by deleting Section 1 and replacing it with an amendment to section 467-31, which requires that:

- (1) Real estate salespersons notify prospective buyers or lessees if a property is located within areas designated by official maps as susceptible to VOG, if the sulfate level is at least twenty-five percent of the PM-10 (particulate matter under ten microns) mass over the property on an annual basis; and
- (2) In the absence of maps designating such areas, notification shall be required for any real property situated in the County of Hawaii.

Your Committee has also amended Section 2 to conform its language with that used in Section 1.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 2304, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2304, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2200 Consumer Protection and Business Regulation on S.B. No. 2306

The purpose of this bill is to develop a system by which uninsured motor vehicles can be identified.

Your Committee has amended the bill to improve the uninsured motor vehicle identification system of the State. As amended, the bill requires the Insurance Commissioner to establish an on-line computer network with all motor vehicle insurers. The insurers are required to input into the data base the vehicle identification number (VIN) and the policy number of all insured vehicles. If there is a cancellation or nonrenewal, then the insurer is responsible for the deletion of the VIN and the policy number from the data base.

The various county directors of finance will be required to check the data base prior to issuing any registration on any vehicle. The Committee believes that this system will provide an effective identification procedure for determining which vehicles are without insurance. The county police departments will also be permitted to utilize the data base for their enforcement purposes.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 2306, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2306, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2201 Consumer Protection and Business Regulation on S.B. No. 2361

The purpose of this bill is to reduce and to stabilize the cost of motor vehicle insurance in Hawaii. This bill amends the motor vehicle insurance laws to reduce no-fault insurance rates by making changes to the claims procedures and certain underwriting provisions, and to provide for a moratorium and a fifteen percent rate reduction on premiums until December 31, 1995.

Your Committee has studied, discussed, and deliberated over this measure and has accommodated the various concerns expressed by the members of the Committee. After careful consideration, your Committee has incorporated various aspects of this issue from other bills to provide a single bill to accomplish an equitable result.

Concern was expressed by some Committee members as to how neck and back injuries would be considered under this bill. It is not the intent of your Committee to bar or to exclude people with serious back or neck injuries from pursuing compensation. Your Committee also believes that a court should also take into consideration possible extraordinary circumstances such as the effect of a back or neck injury on a professional athlete.

This bill, as amended, provides:

1. Limits on an insurance company's issuance of nonrenewals and conditional renewals.
2. Limits on charges by providers of treatment services by mandating that the commissioner establish a medical fee schedule.
3. Adopts by reference the workers' compensation guidelines for frequency of treatment and for reasonable utilization of medical care by providers.
4. Provides for extraordinary circumstances to exceed the limits of the medical fee schedule and for a medical peer review process for insurers for evaluation of a treatment. The peer review is a recognition that injuries are essentially a medical rather than a legal issue.
5. Increases the minimum personal injury protection from \$15,000 to \$25,000.
6. Provides that medical expenses must be necessary in addition to being appropriate and reasonable.
7. Provides that an insurer shall continue the no-fault insurance in force for sixty days instead of thirty days following cancellation or refusal to renew and providing for a sixty day notice of such.
8. Clarifies when an insurer can be granted a surcharge on rates to take into account the insurer's past or prospective loss experience in this State.
9. Provides that the insurer and the named insured may agree to exclude any driver from coverage as an operator of the insured vehicle and to endorse the policy accordingly.
10. Reduces the mandatory liability coverage from \$35,000 to \$10,000 for injury to any one person and \$30,000 for any one accident. (Property damage remains the same at \$10,000.)
11. Mandates that at least \$50,000 coverage be offered for uninsured motorist coverage and for underinsured motorist coverage. Allows an insured to purchase any amounts up to that limit.
12. Prohibits stacking of uninsured and underinsured coverage, except that an insurer shall offer an option to stack in the policy.
13. Provides for a "verbal threshold" of "serious and permanent injury" and repeals the medical-rehabilitative provisions.
14. Provides for a "clean risk" classification under the joint underwriting plan. Defines a clean risk.
15. Provides for an award of claimant's attorneys fees for a denial of a claim only if the claimant is awarded a more favorable result than offered by the insurance company.
16. Provides an immediate rate freeze and rate reduction relief. Rates shall not increase from the effective date of this act until December 31, 1995. Starting January 1, 1993, a mandatory rate reduction goes into effect of fifteen percent from rates in effect as of March 1, 1992. The commissioner is to report back to the legislature in 1993, 1994, and 1995 as to the effect of this provision on the availability of insurance.
17. Provides that no exceptions will be made to the rate freeze unless an insurer can show that insolvency may occur, in which case the insurance commissioner may adjust the rates accordingly.
18. Provides that the commissioner is to conduct a closed claim study on the effect of this bill on auto injury claims and report to the legislature before the 1996 session.
19. Makes several housekeeping changes and other technical nonsubstantive changes.

Your Committee acknowledges the fact that insurance companies are currently operating at a loss. However, insurers have also testified that they would be able to absorb a rate reduction if substantial reforms are made to the no-fault law as contained in this bill. Your Committee believes that the contents of this bill are substantial enough to justify a fifteen

percent reduction in rates. Your Committee finds that a three year freeze on rates and a mandatory reduction in rates will provide widespread benefits and long awaited relief for consumers of this State. Greater relief in future years may be possible with the implementation of the provisions of this bill.

Your Committee would like to make clear that the rate freeze and subsequent rate reduction provisions of the bill are not to be circumvented by insurers by means of last minute requests for rate increases filed with the Insurance Commissioner before the enactment of the bill.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 2361, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2361, S.D. 2.

Signed by all members of the Committee.

SCRep. 2202 Consumer Protection and Business Regulation on S.B. No. 2432

The purpose of this bill is to create a new framework for regulation of the pawnbroker industry.

Your Committee received testimony from the Department of Commerce and Consumer Affairs and the Hawaii Pawnbrokers and Secondhand Dealers Association, both supporting amendments to the measure which would establish effective regulation.

Your Committee finds that the current law governing pawnbrokers has not been amended since 1955, is out of date, and may even have been out of date in 1955.

Based upon the testimony, your Committee has amended the measure as follows:

- (1) Added seven new definitions to Section 445-131, Hawaii Revised Statutes;
- (2) Repealed Sections 445-133 and 445-134;
- (3) Provided for written pawn agreements and specified their contents;
- (4) Required finance charge disclosures similar to those required by the federal Truth-in-Lending Act;
- (5) Limited pawn transactions to one month in duration with the possibility of month-to-month extensions;
- (6) Established a 30-day holding period for redemption of pawned goods;
- (7) Established a maximum finance charge of twenty per cent per month;
- (8) Increased the penalties for violations of the pawnbroker law;
- (9) Changed the sunset review of pawnbrokers to December 31, 1995; and
- (10) Made technical, nonsubstantive amendments for the purposes of clarity and style.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of S.B. No. 2432, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2432, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2203 Judiciary on S.B. No. 2205

The purpose of this bill is to simplify service of process to allow service by anyone who is at least 18 years of age and who is not a party to the case.

Your Committee received supporting testimony from the Judiciary and the Acting State Auditor, stating that the bill conforms with the recommendations contained in the Legislative Auditor's Report on Service of Process.

The Department of Public Safety expressed concern that this bill's "laissez faire" approach could lead to higher fees or unscrupulous shortcuts by for-profit process servers. To some extent, your Committee agrees with the Department that some monitoring is in order; on the other hand, the skills required for proper services does not require a full blown licensing program.

Your Committee therefore amended the bill to require simple registration with the Department of Commerce and Consumer Affairs of all process servers, including those presently authorized and who wish to continue serving process in civil cases, and to change the effective date to January 1, 1993 to insure that there is no disruption to pending civil cases while registration is being implemented. Your Committee also replaced references to "the sheriff or the sheriff's deputy" since the responsibilities of the sheriff's office have been transferred to the special services division of the Department of Public Safety.

Given the time constraints, your Committee was unable to review and conform other provisions in the Hawaii Revised Statutes that may be affected by this bill and instructs the Revisor of Statutes to make the conforming amendments. This

instruction, of course, does not preclude further efforts to conform provisions as this measure proceeds through the Legislature.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2205, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2205, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2204 Judiciary on S.B. No. 2335

The purpose of this bill is to make numerous substantive, clarifying and technical amendments to the laws pertaining to campaign contributions and expenditures.

Your Committee received testimony on this bill from the Director of the Campaign Spending Commission, the Director of Taxation, the League of Women Voters of Hawaii, the publisher of Hawai'i Monitor, the State Chair of the Democratic Party of Hawaii and two interested individuals.

The proposed changes are so numerous that the following discussion touches on only the most substantial:

(1) The definitions of "Advertisement", "Candidate", "Committee", "Expenditure", "Loan", "Matching payment period" and "office" were amended. Of these, the most substantive amendments were to the definitions of "Loan" and "Expenditure." The amendment to "Loan" provided that a loan which was not repaid by the borrower at the expiration of two years would be considered a contribution and subject to the applicable contribution limits.

Testimony was received suggesting that this amendment be modified to provide that all loans not made through a regulated lender be considered a contribution for purposes of the contribution limits. This proposal for an amendment to the bill as introduced would mirror the federal approach and was accepted by your Committee. It is set forth, however, as a new section rather than an amendment to the definition of "Loan."

Concern was expressed that the deletion of the phrase "or is reasonably certain to appear" from the definition of "Expenditure" would delay the reporting requirements pertaining to ballot issues until the requisite signatures for its inclusion on the ballot have been secured. This is a correct interpretation. The intent is to apply the law only after the proponents of a ballot question or issue secure the signatures and have their issue or question certified. The primary benefit is a clear starting point for the application of the law. The bill has been amended to make this decision even clearer.

(2) The changes on page 12 of the bill, deleting the requirement that the organizational report include the name and address of the campaign chairman and deputy chairman, were deleted. However, the term "chairman" was changed to "chairperson."

(3) The provision on disposition on receipt of contributions in excess of the statutory limits has been amended to provide that all such excess receipts shall be deposited with the Hawaii election campaign fund, within six months of their receipt.

(4) The proposed amendments to section 11-205 were deleted, due to a lack of supporting testimony.

(5) Section 11-206 is amended to establish a clearer relationship between contributions and actual campaign expenses.

(6) The amount of the voluntary expenditure limits has been opened for discussion. Although no testimony was received which suggested specific changes, this issue is retained in the Senate Draft 1 for further discussion.

(7) The limit for "shortform" reporting has been increased from \$500 to \$2,000 to encourage new and less sophisticated candidates. A corresponding increase was made concerning section 11-213.

(8) Subsection 11-214(d) is repealed, which has the effect of applying the section on disposition of funds to elected officials and candidates who failed to be nominated or elected. The repeal of subsection 11-214(d) was substituted for the repeal of the word "not" as having the same effect but reducing the verbiage of the section.

(9) The proceedings of the commission regarding complaints, investigations and hearings have been opened. This will increase the accountability of the commission and candidates.

(10) The Hawaii election campaign fund is changed to a revolving fund.

(11) The maximum public funding for candidates other than the governor, lieutenant governor and mayors is increased from \$100 to \$1,000.

(12) The amount of qualifying contributions necessary for candidates for office to qualify for public funds have been increased.

(13) The limitation on tax deductibility of campaign contributions, to those contributions made to candidates who agreed to abide by the voluntary spending ceiling, is removed. This change was widely supported because it encourages small contributions to all candidates.

Your Committee believes that these changes will make the campaign contribution and expenditures law more logical, easier to understand and apply, more effective and will help achieve the intent of subjecting campaign financing to public scrutiny and appropriate regulation.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2335, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2335, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Ikeda and Reed.

SCRep. 2205 Judiciary on S.B. No. 2654

The purpose of this bill is to encourage compliance with permit requirements and environmental protection legislation by amending the section of chapter 607 which provides for attorney's fees and costs where a private party sues for injunctive relief against another private party who undertook or undertakes a development without obtaining all required permits or receiving all required approvals.

Your Committee received supportive testimony from the Sierra Club, Hawai'i Chapter, Life of the Land and two private citizens. There was no testimony in opposition.

Your Committee recognizes the potential benefits of private enforcement of environmental protection statutes and permit requirements. However, with a private enforcement process, there is a risk of unintended uses of the private enforcement powers which are not within the spirit or intent of the enabling legislation. The concern is enhanced by the lack of governmental support for this measure or explicit examples of where government enforcement has been ineffective.

In order to keep this bill alive for further consideration and input, your Committee has amended the bill by limiting its amendments of section 607-25, Hawaii Revised Statutes, to an expansion of the scope of the section to include failure to substantially comply with a government permit or approval. Conforming and technical amendments have also been made.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2654, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2654, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2206 Judiciary on S.B. No. 2729

The intent of this bill is to streamline the review, research and recordation of documents in the Bureau of Conveyances and Land Court by clarifying and standardizing the format and types of information being submitted on each document. This bill also authorizes the Department of Land and Natural Resources to establish a fee schedule with respect to recordings in the Bureau of Conveyances under rules pursuant to Chapter 91. This will enable the Department to make fee adjustments in a timely manner.

Your Committee received testimony in support of the bill from the Department of Land and Natural Resources, Title Guaranty Escrow Services, Inc., Founder's Title and Escrow of Hawaii, First American Title Company of Hawaii, Inc., Island Title Corporation, Security Title Corp., and Long & Melone, Ltd.

In addition, the Special Committee of the Board of Directors of the Real Property and Financial Services Section of the Hawaii State Bar Association and the Condominium Property Regime Committee of the Real Property and Financial Services Section of the Hawaii State Bar Association submitted testimony in support of the proposed revision to section 501-83.5, Hawaii Revised Statutes.

Although it was initially opposed to the bill, the Judiciary discussed the bill with the other interested parties and suggested amendments to the bill that reflect the consensus of the group.

Appreciating the efforts to simplify and streamline the oftentimes onerous recordation process, your Committee amended the bill by incorporating the changes proposed by the Judiciary as follows:

- (1) A new section was proposed, modifying section 501-83.5 to deem all duplicate certificates that are still outstanding, surrendered. As the owner's duplicate certificates of title have been issued after June 14, 1988, and are thus being phased out, this revision will delete the requirement of surrendering the old duplicate certificate or the perfunctory sworn statement that the duplicate certificate has been lost or destroyed.
- (2) The marital status requirement provision was retained because marital status is necessary with respect to property held by married couples as tenants by the entirety.
- (3) Corrections were made to language dealing with condominium apartments, as certificates are not issued to cover apartments but rather undivided interests in the land relating to an apartment.
- (4) A reference to the registrar of conveyances in section 501-108, Hawaii Revised Statutes, was removed since that statute deals only with Land Court land.
- (5) Amendments to section 501-196, Hawaii Revised Statutes, were deleted, as these refer to functions that will remain with the Land Court.

- (6) Paragraph (3) of section 501-218 pertaining to fee schedules was revised to increase the fee for indexing any instrument recorded while application for registration is pending from 25 cents to \$1.00.
- (7) Paragraph (21) regarding the cost for a certified copy of any certificate of title was retained and subsequent provisions were renumbered.
- (8) Paragraph (25) was revised to reflect that orders for a suggestion of death, fact of marriage, divorce, subdivision, or notice of issue of a bankruptcy order are recorded, not registered, and to reflect the earlier deletion of amendments to section 501-196, Hawaii Revised Statutes.
- (9) Paragraph (26) was revised to reflect that petitions are filed, not recorded, and to provide for the additional 25 cent charge for exhibits attached to petitions to conform to Land Court practice.
- (10) Paragraph (27) has been revised to reflect that the orders submitted after original registration are filed, not recorded, and to return the filing fee to \$1 under Land Court jurisdiction.
- (11) Proposed revisions to paragraph (28) were deleted since the fee rate of public officers in cases not expressly provided for by law are established by the court.
- (12) Amendments in section 502-45, Hawaii Revised Statutes, were deleted since it was no longer proposed to accept documents notarized only by notaries from the provinces of the Dominion of Canada.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2729, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2729, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Ikeda and Reed.

SCRep. 2207 Judiciary on S.B. No. 3145

The purpose of this bill is to clarify that section 134-6(a), Hawaii Revised Statutes, regarding the possession or use of a firearm in the commission of a felony, is limited to those offenses that are felonies without the use of firearm.

Presently, an offender who uses a firearm in the commission of a felony can be charged with, in addition to the underlying offense, a class A felony under section 134-6(a) and therefore be subject to an enhanced penalty.

Your Committee received supporting testimony from the Office of the Public Defender, the Honolulu Police Department and the Hawaii Association of Criminal Defense Lawyers.

According to the Public Defender and the Hawaii Association of Criminal Defense Lawyers, this bill will correct the overreaching effect of section 134-6, which allows the prosecutor to apply this section to offenses that already have enhanced penalties for the use of a firearm, such as terroristic threatening and reckless endangering, and to possessory gun offenses -- a result not contemplated by the Legislature at the time of the provision's enactment in 1990 (Act 195).

The Honolulu Department of the Prosecuting Attorney and the League of Women Voters of Hawaii opposed the bill, stating that enforcement of strict penalties is warranted for the improper possession of and crimes committed with firearms.

The Department of the Attorney General supported the intent of the bill but expressed concerns that it infringes on the discretion of the prosecutor to charge under the predicate offense or under section 134-6 and that the phrase "a felony without the use of a firearm" is unclear.

Consistent with the intent of this bill, your Committee made further clarifying amendments. First, the bill was amended so that it will be unlawful to knowingly carry, as opposed to possess, a firearm in the commission of a felony. This amendment will exclude offenses involving constructive possession of a firearm.

Second, the proviso was amended to insure that section 134-6 does not apply to persons charged with offenses that, by definition, involve the possession, use or threatened use of a firearm and does not include terroristic threatening in the first degree. This will exclude offenses that incorporate an enhanced penalty for firearm use or include firearm use as an element of the offense and possessory gun offenses.

Finally, the effective date was changed to take effect retroactive to the enactment date of Act 195.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 3145, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3145, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2208 Judiciary on S.B. No. 3189

This bill proposes to limit the amount of force that parents and guardians can legally use in disciplining their children to that which is "reasonable or moderate." It also makes technical changes to neutralize gender terms and clarify language.

Under the current statute, section 703-309(1)(b), Hawaii Revised Statutes, the amount that a parent or guardian can use in the discipline of a child is that which:

"...is not designed to cause or known to create a substantial risk of causing death, serious bodily injury, disfigurement, extreme pain or mental distress, or gross degradation." (emphasis added)

"Serious bodily injury" is bodily injury "which creates a substantial risk of death,...serious permanent disfigurement, or protracted loss of impairment of a body or organ function." HAWAII REV. STAT., section 707-700. This bill proposes to reduce the amount of force to that which is not likely to cause more than transient pain or minor temporary marks. The child's age, size, and condition, as well as the location of the injury are factors to be considerate in determining whether the force is reasonable or moderate.

Testimony in support of the bill was submitted by the Honolulu Department of the Prosecuting Attorney, the Honolulu Police Department, Hawaii State Coalition Against Sexual Assault, American Civil Liberties Union of Hawaii, HOPE for Battered Women, Domestic Violence Clearinghouse and Legal Hotline, and Sex Abuse Interventions.

There were, however, concerns that the bill does not provide adequate guidelines as to what is reasonable and moderate or clear enough standards to put parents on notice as to how much force is legally permitted in disciplining their children. The Office of the Public Defender questioned whether it would be more effective to deal with the problem of child abuse by altering unacceptable parenting through intervention and education rather than by criminalizing more behaviors.

Your Committee recognizes that the line between physical abuse and parental discipline is a very subjective one. What one parent considers to be appropriate discipline may well seem inappropriate to another. Your Committee must consider how best to draw the line in the context of the legal defense provided for parents and guardians under section 703-309, which creates the legal parameters for determining guilt in a criminal trial.

In light of these considerations, your Committee amended the bill so that section 703-309(1)(b) is retained but the standard of harm is lowered by lowering the level of risk, and reducing the permissible level of injury to that which is less than "substantial" as defined in section 707-700 of the Hawaii Penal Code. While the permissible level of injury may still appear high, it is clearly a lower and more appropriate threshold.

By using terms in the Hawaii Penal Code, your Committee believes that the standard is clearer for both the police and the public to understand and follow.

Your Committee also made technical amendments to neutralize gender terms and clarify language in the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 3189, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3189, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2209 (Joint) Ways and Means and Judiciary on S.B. No. 3486

The purpose of this bill is to promote the resolution of an issue that has been avoided by the federal and state governments for nearly a century. The bill outlines the events which led to the illegal overthrow of the legitimate Hawaiian monarchy and subsequent annexation of the Hawaiian islands by the United States. The bill also describes the consequences, for the indigenous Hawaiian people, of the loss of their kingdom. It recognizes, on behalf of the citizens of Hawai'i, the need to correct historical injustices. Finally, it appropriates \$350,000 for a special Native Hawaiian Convention in 1994 to draft a document for self-governance.

Your Committees find that the indigenous Hawaiian people have suffered and continue to suffer serious injustices as a result of the illegal overthrow of the Hawaiian monarchy in 1893. Further, the indigenous Hawaiian people have not had the resources and means of political organization which are necessary to achieve the type of self-determination that similar indigenous groups enjoy under the Constitution of the United States. The continuing failure of the federal government to fulfill its land trust obligations to the indigenous Hawaiian people is, in itself, a serious impediment to restoring the self-determination of the indigenous Hawaiian people.

Your Committees realize that deliberative action must be taken on the issue of sovereignty. However, there are concerns about a "rush to judgement." Your Committees agree with the Native Hawaiian Advisory Council that calling a convention will not accelerate the resolution of the complex issue of indigenous Hawaiian sovereignty. Statehood required decades from inception to culmination. It is necessary to allow the indigenous Hawaiian people sufficient time to fully prepare and appropriately resolve the issues surrounding sovereignty and self-determination. Therefore, the sections concerning a convention in 1994 have been deleted to ensure that the indigenous Hawaiian people are not propelled into a decision for which they have not fully prepared. Your Committees also amended the bill by making technical, non-substantive corrections for the purpose of style and clarity.

Your Committees hope that this bill will be a catalyst to further discussions about the specifics of sovereignty and self-determination. Both indigenous Hawaiians and non-indigenous members of the community must explore the feasibility and justness of different models of sovereignty and self-determination and produce a meaningful resolution to a century old issue.

Your Committees on Ways and Means and Judiciary are in accord with the intent and purpose of S.B. No. 3486, S.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as S.B. No. 3486, S.D. 2.

Signed by all members of the Committees except Senators Aki, Ikeda and Reed.

SCRep. 2210 Agriculture and Environmental Protection on S .B. No. 2653

The purpose of this bill is to require the recycling of solid wastes for agricultural purposes.

Upon consideration, your Committee, rather than mandating the recycling of solid wastes at this time, finds it necessary for the State to adopt rules in compliance with revised federal regulations relating to municipal solid waste landfills. By adopting rules in compliance with federal standards and achieving "approved status" under the authority of the Environmental Protection Agency, the State will gain considerable flexibility in the permitting and regulation of new and existing municipal solid waste landfills. In order to achieve "approved status" it is necessary to amend existing solid waste statutes to provide the department of health with adequate authority to adopt the required rules.

Your Committee has added a new part to Chapter 342H, Hawaii Revised Statutes, which establishes criteria for municipal solid waste landfills, and has made technical amendments to the bill which have no substantive effect.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of S.B. No. 2653, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2653, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2211 Agriculture and Environmental Protection on S.B. No. 2665

The purpose of this bill is to authorize the Department of Agriculture to limit by rule the maximum amount of weed seed allowable in agricultural and vegetable seed offered for sale and to prohibit the sale of agricultural and vegetable seed with false or misleading labels. Currently, the department may regulate only "noxious" weed seed and has no explicit authority to prohibit the sale of seed with false or misleading labels.

The Department of Agriculture submitted testimony in support of the measure.

The testimony indicated that this bill is necessary because existing statutory provisions relating to the regulation of agricultural seed do not adequately protect the State and its consumers in the areas covered.

Your Committee agrees with the department and urges the passage of this measure.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of S.B. No. 2665 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Ikeda.

SCRep. 2212 Agriculture and Environmental Protection on S.B. No. 2015

The purpose of this bill is to amend Chapter 128D, Hawaii Revised Statutes, pertaining to environmental emergency response (Superfund), by adding provisions which allow for citizen suits against the State or others for failure to either properly enforce or adhere to the provisions of the chapter.

Testimony in support of the bill was received from the Corporate Trustees Association of Hawaii.

Your Committee acknowledges that the provisions of the Superfund bill enacted last year struck a delicate balance between environmental concerns and business interests. Furthermore, your Committee is inclined not to amend the Superfund law until the Department of Health has had an opportunity to draft rules implementing the law. However, testimony submitted to your Committee has indicated that liability may be unfairly imposed when the law is implemented with regard to the management of trusts and estates resulting from the intergenerational transfer of property.

Realizing this, your Committee has amended the bill by deleting its contents and inserting provisions which provide an exemption from liability for corporate fiduciaries.

Your Committee finds that this exemption is needed to clarify that corporate fiduciaries responsible for managing trusts or estates should not be held liable for the release or threatened release of hazardous materials and that recourse should be limited to the assets of the trust or estate.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of S.B. No. 2015, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2015, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Ikeda.

SCRep. 2213 Agriculture and Environmental Protection on S.B. No. 3179

The purpose of this bill is to prohibit the abandonment of pets by making such action a misdemeanor.

Your Committee finds that releasing pets is not only cruel to the pet but also adds to the overpopulation problems of these animals. Abandoned animals also have the potential to be highly destructive. Rabbits in Haleakala caused serious destruction on native plants. Overcrowded animals cause serious sanitation problems in parks and other public areas.

Upon consideration, your Committee has amended this bill to clarify that the provisions apply to all animals whether considered pets or not and that the prohibition applies to voluntary relinquishment of possession without arrangements for another to provide care.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of S.B. No. 3179, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3179, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Reed.

SCRep. 2214 Agriculture and Environmental Protection on S.B. No. 3316

The purpose of this bill is to expand the existing Waikiki Marine Life Conservation District (MLCD) to Diamond Head as the eastern border and the Ala Wai Boat Harbor Entrance Channel as the western border, and to extend it seaward to a depth of 100 feet.

Your Committee finds that including the Diamond Head area, which is currently designated a fishery management area, in the Waikiki MLCD would result in greatly increased use without shore facilities necessary to accommodate it. Given this, together with consideration of the safety hazards accompanying intensive mixed use, your Committee is reluctant to permit this area to become another Hanauma Bay.

Accordingly, the bill has been amended to designate the Sans Souci and Hilton Channels as the eastern and western boundaries, respectively, and thirty feet beyond the fringing reef as the seaward boundary. Your Committee believes that the bill, as amended, effects an appropriate accommodation of the interests of those who use and enjoy the Waikiki Beach area.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of S.B. No. 3316, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3316, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2215 Agriculture and Environmental Protection on S.B. No. 3340

The purpose of this bill is to extend by one month the closed season for the taking of mullet and spiny and slipper lobster.

Your Committee finds that the current closed season for mullet, December through February, is set to coincide with the movement of adult mullet to nearshore reefs for spawning. This movement, however, may often occur before December, depending on sea conditions and the reproductive development of the fish. Adding November to the closed season, then, will help ensure that mullet are protected during their reproductive period. Similarly, beginning the closed season for lobster (June through August) a month earlier than is the case currently will protect female lobsters that have been frequently observed to carry eggs externally in the month of May.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of S.B. No. 3340 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2216 Planning, Land and Water Use Management on S.B. No. 3438

The purpose of this bill is to allow the Board of Land and Natural Resources to extend all leases to an aggregate of sixty-five years, including the initial term and any extensions.

Currently, extensions which would bring the aggregate of the initial term and the extension to fifty-five years, are allowed for intensive agricultural, aquaculture, mariculture, and special livestock leases.

Your Committee notes that the additional ten years may qualify some lessees for mortgages or loans; however, it is not clear to your Committee that the overall benefit to be derived is sufficient to justify this change, especially in light of the fact that it would be applicable to all leases across the board.

Your Committee, in view of these concerns, has amended this bill by restoring the fifty-five year aggregate provision.

Your Committee has also amended the bill by changing the effective date to July 1, 1994.

Your Committee on Planning, Land and Water Use Management is in accord with the intent and purpose of S.B. No. 3438, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3438, S.D. 2.

Signed by all members of the Committee except Senator Nakasato.

SCRep. 2217 Ways and Means on S.B. No. 1767

The purpose of this bill is to:

- (1) Establish a scholarship program to address recruitment and retention problems as they relate to occupational therapists and physical therapists;
- (2) Develop and implement incentive mechanisms for occupational therapists and physical therapists;
- (3) Develop training and mentorship models for occupational therapists and physical therapists; and
- (4) Appropriate the sum of \$317,715, for fiscal year 1991-1992, and the sum of \$444,266, for fiscal year 1992-1993, to the University of Hawaii, for the establishment of a scholarship program for physical therapists.

Your Committee has amended this bill by:

- (1) Deleting all references to the profession of "occupational therapy" and "occupational therapists". Regrettably, this amendment is necessary in order to conform the contents of this bill to its title, which relates only to the profession of "physical therapy" and "physical therapists";
- (2) Specifying that the amount of interest penalty that must be paid by a scholarship recipient who fails to fulfill the recipient's service commitment to the department of health or department of education, is to be determined by the University of Hawaii in consultation with the department of taxation;
- (3) Deleting the sum to be appropriated to the University of Hawaii for fiscal year 1991-1992;
- (4) Changing the sum to be appropriated to the University of Hawaii for fiscal year 1992-1993, from \$444,266 to an unspecified amount; and
- (5) Making technical nonsubstantive amendments.

Your Committee finds that this bill could help to alleviate the present shortage of physical therapists in Hawaii.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1767, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1767, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Levin.

SCRep. 2218 Ways and Means on S.B. No. 2253

The purpose of this bill is to make an appropriation to create a steering committee to study and make recommendations regarding the implementation of a year-round multi-track school model for West Hawaii.

Your Committee finds that the extraordinary population growth in West Hawaii has had an adverse impact on public schools due to the lack of facilities and teaching staff. The year-round multi-track school would assist in alleviating these problems and would improve student achievement by optimal use of remedial and enrichment activities throughout the year.

Your Committee has amended this bill by changing the appropriation to a blank amount, and by making technical nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2253, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2253, S.D. 2.

Signed by all members of the Committee except Senator Levin.

SCRep. 2219 Ways and Means on S.B. No. 2950

The purpose of this bill is to appropriate the sum of \$220,000, for fiscal year 1992-1993, to the University of Hawaii, for the Hawaii institute of marine biology to conduct a comprehensive research program on the Kaneohe Bay ecosystem.

Your Committee finds that the proposed research program could serve as an orderly and cost-effective means of assessing and improving water quality in Kaneohe Bay. Your Committee also finds that the proposed research program could be useful in dealing with similar water quality problems elsewhere in the State.

Your Committee has amended this bill by:

- (1) Changing the sum to be appropriated to the University of Hawaii from \$220,000, to an unspecified amount; and
- (2) Making technical, nonsubstantive changes.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2950, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2950, S.D. 2.

Signed by all members of the Committee except Senator Levin.

SCRep. 2220 Ways and Means on S.B. No. 3120

The purpose of this bill is to exempt students from the former Soviet Union from the nonresident tuition differential at the University of Hawaii.

Your Committee finds that it is in the best interests of the State to encourage and assist students who can enrich the educational environment. Cultivation of students from the former Soviet Union adds unique perspectives on the study of political and economic evolution and allows cultural exchange on a one-to-one basis. The Commonwealth of Independent States, as the former Soviet Union is now known, is experiencing a tumultuous reorganization. Efforts to maintain relations and retain reciprocity at their universities should be continued as the Commonwealth of Independent States borders on the Pacific Rim which the University of Hawaii is committed to serve.

Your Committee has amended this bill by making technical, nonsubstantive changes.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3120, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3120, S.D. 1.

Signed by all members of the Committee except Senator Levin.

SCRep. 2221 Ways and Means on S.B. No. 3237

The purpose of this bill is to change the date after which the legislature is to set the salary of the president of the University of Hawaii.

Currently, the date after which the legislature is to set the president's salary is July 1, 1996. This bill replaces that date with a blank space.

Your Committee has amended the bill by correcting the ramseyer section.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3237, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3237, S.D. 2.

Signed by all members of the Committee except Senator Levin.

SCRep. 2222 Ways and Means on S.B. No. 1028

The purpose of this bill is to establish clear procedures governing executive budget requests not contained in the executive budget or the supplemental budget, as the case may be, which are submitted for consideration to the legislature less than twenty days before the convening of the legislature.

This bill requires the governor to submit separate bills for additional executive budget requests submitted to the legislature after the executive budget or supplemental budget, as the case may be, has been submitted. The bills would have to include:

- (1) Reasons why the additional request was not included with the original budget or supplemental budget;
- (2) Clear and compelling reasons why the request must be included;
- (3) The percentage increase or decrease the additional request represents in relation to the executive budget or supplemental budget; and
- (4) Other information relating to cost elements, position counts, and program identification numbers.

In previous years, additional budget requests have been made through the use of governor's messages, but only for emergency situations, or where significant new information became available which required action. However, it has increasingly become common practice for the executive to submit additional budget requests for legislative consideration through the use of governor's messages for nonemergency situations. Because the Executive Budget Act does not provide a procedure for the governor to submit such additional budget requests, there is a compelling need to establish clear guidelines for doing so.

The continued indiscriminate use of governor's messages to submit additional budget requests is contrary to the requirements and intent of the Executive Budget Act and abuses the fundamental concept of the system of checks and balances among the various branches of government upon which our system of government rests. The practice of using governor's messages for additional budget requests also deprives the legislature of the time needed to adequately review the governor's additional proposals. This practice undermines the intent of the Executive Budget Act by emasculating established procedures to prepare, coordinate, analyze, and enact a budget to implement the State's program and financial objectives and policies.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1028, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Levin.

SCRep. 2223 Ways and Means on S.B. No. 3075

The purpose of this bill is to carry out the recommendations of the legislative auditor with respect to the special and revolving funds administered under the housing finance and development corporation and the department of business, economic development, and tourism.

Your Committee finds that Act 240, Session Laws of Hawaii 1990, directed the legislative auditor to perform a comprehensive review of the various special and revolving funds under each agency of the State to determine whether these funds should be continued, modified, or repealed. Act 240 expressed concern over the State's ability to maintain control over the state budgetary process during times of uncertainty or when fluctuations in the economy affect general fund reserves.

Special and revolving funds generate and expend revenues directly without regard to legislative review or the State's overall fiscal condition; thereby contributing to a loss of budgetary control. This bill modifies or repeals various special and revolving funds under the housing finance and development corporation and the department of business, economic development, and tourism as recommended by the legislative auditor.

Following its review of this measure, your Committee has amended this bill by deleting the proposal to repeal the high technology research and development revolving fund and the high technology special fund under the department of business, economic development, and tourism.

Your Committee has further amended this bill by requiring the transfer of moneys from certain funds identified by the legislative auditor as generally having excess funds remaining on balance at the end of each fiscal year. Although the effective date of this bill is set for July 1, 1993, your Committee finds that the excess sums held in these funds should be transferred to the state general fund prior to the start of the 1993-1994 fiscal year. Your Committee has included a provision which requires the transfer of unspecified sums of moneys from these funds to the general fund by July 31, 1992. This will allow these programs as well as the legislature to determine budgetary priorities for the 1993 fiscal year.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3075, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3075, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Levin and Solomon.

SCRep. 2224 Ways and Means on S.B. No. 3076

The purpose of this bill is to carry out the recommendations of the legislative auditor with respect to the special and revolving funds administered under the departments of commerce and consumer affairs, education, health, and human services.

Your Committee finds that Act 240, Session Laws of Hawaii 1990, directed the legislative auditor to perform a comprehensive review of the various special and revolving funds under each agency of the State to determine whether these funds should be continued, modified, or repealed. Act 240 expressed concern over the State's ability to maintain control over the state budgetary process during times of uncertainty or when fluctuations in the economy affect general fund reserves.

Special and revolving funds generate and expend revenues directly without regard to legislative review or the State's overall fiscal condition; thereby contributing to a loss of budgetary control. This bill modifies or repeals various special and revolving funds under the departments of commerce and consumer affairs, education, health, and human services as recommended by the legislative auditor.

Following its review of this measure, your Committee has amended this bill by deleting the sections of this bill that propose the repeal of the adult education special fund under the department of education and the facility administration fund and the public health facility special funds under the department of health.

Your Committee has further amended this bill by requiring the transfer of moneys from certain funds identified by the legislative auditor as generally having excess funds remaining on balance at the end of each fiscal year. Although the effective date of this bill is set for July 1, 1993, your Committee finds that the excess sums held in these funds should be transferred to the state general fund prior to the start of the 1993-1994 fiscal year. Your Committee has included a provision which requires the transfer of an unspecified sum of moneys from each of these funds to the general fund on July 31, 1992. This will allow these programs as well as the legislature to determine budgetary priorities for the 1993 fiscal year. Your Committee has also made technical, nonsubstantive changes.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3076, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3076, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Levin and Solomon.

SCRep. 2225 Ways and Means on S.B. No. 3077

The purpose of this bill is to appropriate funds to establish a computer consultant branch within the department of budget and finance.

Your Committee finds that due to the State's increasing need for ongoing centralized computer consulting expertise for all its agencies, it would be greatly advantageous for the State to employ its own computer consultants who will have the expertise and knowledge to provide services to state agencies for their consulting needs.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3077 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Levin and Solomon.

SCRep. 2226 Ways and Means on S.B. No. 3116

The purpose of this bill is to establish an office of the chief procurement officer and establish a competitive sealed bidding and multi-step sealed bidding procedure for the procurement of public goods and services.

Your Committee finds that the State's procurement law provides the government with the authority to expend millions of dollars in public moneys on an annual basis. While the intent of the law is to safeguard the expenditure of public funds, several weaknesses have been found in several areas of the law. According to a study of the State's procurement law published by Lallatin & Associates in 1990, the provisions of Hawaii's procurement law are "without stated purpose, are not comprehensive or consolidated and are disorganized structurally". The purpose of this bill is to implement some of the recommendations included in the study.

While it concurs with the general concept of this bill, your Committee finds that the changes to the procurement law should be made with prudence and forethought. Further work on developing legislation that would accurately address the problems identified by previous evaluations of the procurement code may be necessary. In this regard, your Committee has amended this bill by replacing most of its contents with a directive to the office of the auditor to perform a comprehensive study on revising Hawaii's procurement code and submit recommendations to the legislative reference bureau to draft legislation for a proposed Hawaii procurement law. This bill also contains several proposed changes to the procurement law to allow the use of official bank checks during public bidding.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3116, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3116, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Levin and Solomon.

SCRep. 2227 Ways and Means on S.B. No. 3295

The purpose of this bill is to exempt the purchase of certain equipment used in oil pollution removal activities from the State's use tax if purchased by certain tax exempt entities.

Your Committee finds that the bill would contribute significantly to environmental emergency response and would also benefit Hawaii's environment at minimal cost to government. Other jurisdictions have granted similar tax exemptions.

Your Committee finds that the Marine Spill Response Corporation (MSRC) is a private, not-for-profit and tax exempt organization which will provide a best-effort response to catastrophic oil spills in U.S. coastal and tidal waters. Current plans call for a MSRC national system to be operational by February 1993.

Your Committee further finds that MSRC will have a major presence in Hawaii, has voluntarily selected Hawaii as a deployed response site, and will be allocating close to \$21,000,000 in new investment capital to protect Hawaii's coastline against major oil spills. Included in MSRC's investment is a new two hundred ten foot response vessel expected to be stationed in Hawaii in January 1993, two barges to carry recovered oil, and spill response equipment.

Your Committee further finds that existing U.S. oil spill response organizations have a limited capability of responding to open sea spills and most of that capability is on the west coast. In 1989, the spill of the Exxon Valdez amounted to approximately 200,000 barrels which far exceeded existing capability available anywhere. Thus, there is a serious gap in existing spill response capability in U.S. coastal waters. It is the objective of MSRC to bridge that gap by providing enhanced capability to mount a best-effort response to such catastrophic oil spills. All MSRC equipment, material, and activities in Hawaii will be primarily for the protection of the public and the public interest through the mitigation of water pollution caused by oil spills.

Your Committee further finds that the U.S. Congress recognized the serious environmental damage caused by large oil spills by enacting the Oil Pollution Act of 1990. Entities, such as MSRC, which were created to respond to the requirements set forth in the Oil Pollution Act of 1990 will help protect against environmental damage caused by catastrophic oil spills.

Your Committee supports the efforts of entities such as MSRC and believes that the pre-staging of response vessels, barges, and equipment will significantly benefit Hawaii's emergency environmental response.

Your Committee has amended the bill to automatically repeal the amendments made by this Act on June 30, 1995.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3295, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3295, S.D. 2.

Signed by all members of the Committee except Senator Levin.

SCRep. 2228 Ways and Means on H.B. No. 3103

The purpose of this bill is to appropriate or authorize the expenditure of non-general fund revenues to various executive programs funded by special or revolving funds.

Your Committee finds that programs relying on non-general fund revenues are unique in that their program size and functions are determined by the revenue levels. Because revenue levels are difficult to predict, adjustments must be made to address mid-year fluctuations.

The governor has recommended the immediate consideration and passage of this bill by the legislature in accordance with Article VII, section 9, of the Constitution of the State of Hawaii.

Your Committee has amended this bill by increasing the sum to be expended under item CCA 102, Cable Television, to \$593,000. The purpose of the increase is to allow the one-time disbursement of public, educational, and governmental access funds, primarily for the island of Maui.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3103, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3103, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2229 (Majority) Ways and Means on S.B. No. 2423

The purpose of this bill is to designate ten per cent of the transient accommodations tax revenues allocated to each county for tourism marketing activities to promote the visitor industry in each county.

Your Committee believes that because Hawaii's economy is dependent to a large extent on tourism and tourist-related services, it should be mandatory for each county to designate a set portion of its budget for marketing and promotion of this critical industry.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2423, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.
Senator George did not concur.

SCRep. 2230 Ways and Means on S.B. No. 2882

The purpose of this bill is to appropriate the sum of \$200,000 for the establishment of a Waikiki task force to research, explore, and assess all possible methods of financing and implementing a Waikiki master plan.

Your Committee finds that it is imperative that the Waikiki district of Oahu be revitalized and improved to maintain its viability as a major tourist destination area. To enable the development and implementation of a master plan and to stimulate funding for various projects, your Committee finds that a Waikiki task force should be established.

To facilitate further discussion on the funding necessary to carry out the purposes of this measure, your Committee has amended this bill by replacing the proposed appropriation with a blank amount. Your Committee has also made several technical nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2882, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2882, S.D. 2.

Signed by all members of the Committee.

SCRep. 2231 (Majority) Ways and Means on S.B. No. 3082

The purpose of this bill is to distribute thirty per cent of a county's allocable transient accommodations tax (TAT) revenues to a special promotional fund that will be used for marketing and sales to promote hotel properties in counties that adopt differential real property rates.

Your Committee finds that the concept of allocation of the TAT as distributed by this bill will help address the differential real property rates adopted in counties and at the same time will support and promote the viability of the visitor industry through greater marketing efforts.

Your Committee has amended this bill by changing the percentage of allocable TAT revenues to a blank amount so that the matter may be considered further.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3082, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3082, S.D. 1.

Signed by all members of the Committee except Senator Levin.
Senators Iwase, Kobayashi, B., and George did not concur.

SCRep. 2232 Ways and Means on S.B. No. 2313

The purpose of this bill is to expand the "alcohol fuels" exemption from the general excise tax to include the sale of all "clean fuels".

Your Committee finds that this bill would reaffirm the State's commitment to expanded use of alternative transportation fuels to provide a cleaner environment and to decrease the State's dependence on imported oil. The bill requires the director of taxation to report every two years to the governor and the legislature and, if enacted, would take effect on January 1, 1993. The bill also provides for an automatic repeal on June 30, 1998.

Your Committee has amended the bill to provide for the reenactment of the underlying law at the time of the automatic repeal to insure that only the amendments made by this bill will be repealed rather than the entire law.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2313, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2313, S.D. 2.

Signed by all members of the Committee except Senator Levin.

SCRep. 2233 Ways and Means on S.B. No. 2317

The purpose of this bill is to appropriate funds for a feasibility and site selection study and for preliminary engineering design of a thirty-five megawatt hydroelectric power plant that pumps seawater up to a highly elevated reservoir at night and generates electricity by returning it to the ocean during the day.

Your Committee finds that power shortages occur only during daytime and not at night for all the islands. To generate more power for daytime use and to take advantage of the power surpluses at night this bill will provide funds to evaluate the possible use of certain elevated areas and to begin preliminary engineering design for another hydroelectric power plant in Hawaii.

Your Committee has amended this bill to change the sum appropriated to a blank amount.

Your Committee has also made technical, nonsubstantive amendments for the purpose of clarity and style.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2317, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2317, S.D. 1.

Signed by all members of the Committee except Senator Levin.

SCRep. 2234 Ways and Means on S.B. No. 2881

The purpose of this bill is to require the department of business, economic development, and tourism to prepare biennial state energy emergency preparedness plans. This bill also requires the mayor of each county to prepare county energy emergency preparedness plans. In addition, this bill appropriates \$200,000, to the petroleum products control fund and authorizes the governor to expend proceeds of the fund prior to petroleum shortages to prepare for and avert these situations.

Your Committee finds that this bill will enable the state department of business, economic development, and tourism to more effectively execute its responsibilities under the petroleum emergency shortage law. The proposals contained in this bill were developed by the State's energy policy development program.

To facilitate further discussion on the funding necessary to carry out the purposes of this measure, your Committee has amended this bill by replacing the proposed appropriation with a blank amount. Your Committee has also made technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2881, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2881, S.D. 2.

Signed by all members of the Committee.

SCRep. 2235 Ways and Means on S.B. No. 3398

The purpose of this bill is to appropriate \$375,000 to be expended by the department of business, economic development, and tourism to initiate activities to increase the transfer of international technologies and businesses to the State.

Your Committee finds that the hiring of consultants who specialize in the area of international business can assist the State in their international marketing efforts to bring industries including high technology, health and fitness, ocean resources, bio-tech and educational/training centers to Hawaii.

Your Committee has amended this bill by leaving the appropriated amount blank to promote further consideration of this matter.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3398, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3398, S.D. 1.

Signed by all members of the Committee except Senator Levin.

SCRep. 2236 Ways and Means on S.B. No. 2394

The purpose of this bill is to continue the child care provider training demonstration project within the department of labor and industrial relations.

Your Committee agrees that the lack of affordable quality child care is an issue which impacts not only families but the workforce in Hawaii. Your Committee agrees with your Committee on Health and Human Services that the child care provider training demonstration project which has been established through the department of labor and industrial

relations and the office of children and youth be continued for an additional year before it is considered as a permanent program.

Your Committee has amended the bill by changing the appropriations to blank amounts, and by clarifying that the demonstration project is being contained rather than established.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2394, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2394, S.D. 2.

Signed by all members of the Committee except Senator Levin.

SCRep. 2237 Ways and Means on S.B. No. 2547

The purpose of this bill is to defer the effective date of Act 335, Session Laws of Hawaii 1991.

Act 335 provides for the repeal of chapter 42, Hawaii Revised Statutes, on July 1, 1992. The procedure set out in chapter 42 for the funding of grants, subsidies, and purchases of service is to be replaced by a new procedure which is intended to resolve the many problems service providers and state agencies have noted in the current procedures.

Your Committee agrees with the Committee on Health and Human Services that continued dialogue between the parties regarding the new procedures should be encouraged so that problems can be addressed before the new law becomes effective.

Your Committee has made technical, nonsubstantive amendments to this bill for purposes of style.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2547, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2547, S.D. 2.

Signed by all members of the Committee except Senator Levin.

SCRep. 2238 Ways and Means on S.B. No. 2714

The purpose of this bill is to amend chapter 326, Hawaii Revised Statutes, to make it compatible with current medical practices for Hansen's disease.

Your Committee finds that the patient-residents at Kalaupapa settlement and those in the community should receive comparable health care benefits. Your Committee further finds that the benefits afforded to institutionalized patients should be continued upon their return to the community.

Your Committee has amended this bill by amending section 326-30, Hawaii Revised Statutes, to restrict the prohibition against picture-taking to facilities maintained by the department of health, and by making technical amendments for the purposes of clarity and consistency.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2714, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2714, S.D. 2.

Signed by all members of the Committee except Senator Levin.

SCRep. 2239 Ways and Means on S.B. No. 2725

The purpose of this bill is to extend the autonomy pilot project for Hilo and Maui Memorial hospitals, enacted by Act 223, Session Laws of Hawaii 1990, for an additional year to June 30, 1993.

Your Committee finds that the autonomy pilot project for Hilo and Maui Memorial hospitals was created to foster more effective and streamlined management practices. If the project is terminated, the hospitals will lose a number of administrative, fiscal, and operational efficiencies gained since the inception of the project as well as the benefit of acting as a transition from a centralized state hospital administration toward an autonomous, nonprofit corporate status for the community hospitals on Hilo and Maui contemplated by Act 223.

Your Committee has made technical, nonsubstantive amendments for the purpose of clarity and style.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2725, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2725, S.D. 1.

Signed by all members of the Committee except Senators Levin and Solomon.

SCRep. 2240 Ways and Means on S.B. No. 3298

The purpose of this bill is to provide for the establishment of private self-sufficiency trusts for persons with disabilities without jeopardizing their receipt of public assistance and other benefits.

Your Committee finds that families with disabled dependents have difficulty guaranteeing that their dependents will be well cared for in the future after their dependents' caregivers are no longer living. Many families would like to contribute assets to assist with future care of their dependents without fear of losing benefits from such federal programs as Medicaid and Supplemental Security Income.

Your Committee further finds that there is a need for innovative financial planning for families which care for their disabled dependents who are eligible for federal financial assistance and that this bill reflects the recommendations of a study of this concept which was conducted in response to House Concurrent Resolution No. 326, adopted by the legislature in 1991.

Your Committee has amended this bill by further defining the term "residual trust" to include a charitable trust, and by making technical nonsubstantive changes for clarity and style.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3298, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3298, S.D. 2.

Signed by all members of the Committee except Senator Levin.

SCRep. 2241 Ways and Means on S.B. No. 2603

The purpose of this bill is to stimulate agricultural business in the State by amending the definition of "qualified business" in section 209E-2, Hawaii Revised Statutes, regarding enterprise zones by adding the phrase: "producing as defined in chapter 237" in addition to manufacturing or service business.

Your Committee finds that "producing" is neither exclusively nor precisely defined in chapter 237 and may be interpreted to include any type of manufacturing. For example, section 237-13 includes the term "producing" in the heading of "tax on business of selling tangible personal property," but does not define "producer" as compared to "manufacturer" by employing the phrase "manufacturer or producer." At the same time, the phrase "licensed producer" appears in section 237-4 undefined and is listed in conjunction with "a cooperative association described in section 237-23(a)(8)." Section 237-23(a)(8), in turn, refers to cooperative associations incorporated under chapter 421 (agricultural cooperative associations) and erroneously refers to chapter 422 (fish marketing associations) which was repealed by Act 100, Session Laws of Hawaii 1991.

Your Committee further finds, however, that even if "producing" or "producer" is fully and exclusively defined to refer to agricultural cooperative associations under chapter 421, HRS, adding that definition to section 209E-2 would still be unable to surmount the problem of mixing non-enterprise zone agricultural cooperative associations with otherwise qualified businesses operating within enterprise zones under the law governing enterprise zones. Your Committee finds that the cleanest and most effective way, though not necessarily the simplest, of fulfilling the purpose of this bill is to amend this bill to its original form.

Your Committee finds that, if thus amended and subsequently enacted, the amended bill would foster the revitalization of the rural economy in our State by means of regulatory flexibility and tax incentives. Agricultural businesses would be granted tax incentives which are identical to those offered to eligible businesses participating in the State's already existing, but not yet operational, enterprise zones (EZ) program. The primary difference is that the EZ program is limited to designated areas while this bill would include agricultural activities wherever they are located.

Your Committee has, therefore, amended this bill to reinstate sections 1 through 6 of the original bill and to delete the amendment to the definition of "qualified business" contained in section 209E-2, HRS.

Your Committee has also made technical, nonsubstantive amendments for the purpose of clarity and style.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2603, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2603, S.D. 2.

Signed by all members of the Committee except Senator Levin.

SCRep. 2242 Ways and Means on S.B. No. 2767

The purpose of this bill is to regulate the servicing of refrigerated appliances and machines utilizing CFCs, halons, and other ozone-depleting compounds.

Your Committee has amended this bill by:

- (1) Deleting the definitions of "recycled CFCs" and "refrigerant recovery and recycling equipment" in section 2 of this bill. The provisions relating to these definitions were previously deleted by your Committee on Agriculture and Environmental Protection;
- (2) Clarifying that no person in this State, effective January 1, 1994, is to perform service on any mobile air conditioner, motor vehicle, or commercial or residential air conditioner, in addition to any appliance or machine, regulated by the director of commerce and consumer affairs, without possessing a certificate from the director attesting to the fact that the person has successfully completed an approved training course dealing with the recovery and recycling of CFCs, halons, and other ozone-depleting compounds. This amendment to section 2 of this bill makes the wording of the provision relating to prohibited acts consistent with the wording of the provision relating to required training;
- (3) Deleting a reference in section 2 of this bill to the training of persons who service appliances, mobile air conditioners, motor vehicles, commercial and residential air conditioners, and any other products that contain CFCs, halons, or ozone-depleting compounds and are regulated by the director pursuant to the ozone layer protection law (chapter 342C, Hawaii Revised Statutes). The provisions relating to this duty, insofar as they concerned the ozone layer protection law, were previously deleted by your Committee on Agriculture and Environmental Protection;

- (4) Adding three new provisions to:
- (A) Amend the definition of "CFC" in the ozone layer protection law, the law relating to the regulation of motor vehicle repairs (chapter 437B, Hawaii Revised Statutes), and the law relating to contractors (chapter 444, Hawaii Revised Statutes), to be consistent with the definition of "CFC" contained in section 2 of this bill. These amendments make the definition of "CFC" consistent throughout the Hawaii Revised Statutes;
 - (B) Define the terms "halon" and "ozone depleting compound" as they are used in the law relating to the regulation of motor vehicle repairs, and the law relating to contractors; and
 - (C) Amend the definition of "refrigerant recovery and recycling equipment" as it is defined in the law relating to the regulation of motor vehicle repairs, to be consistent with the definition of "refrigerant recovery and recycling equipment" contained in the ozone layer protection law and the law relating to contractors;
- (5) Adding two new provisions to:
- (A) Prohibit a person from performing service on any motor vehicle or mobile air conditioner after January 1, 1994, without possessing a certificate from the director attesting to the fact that the person has successfully completed an approved training course dealing with the recovery and recycling of CFCs, halons, and other ozone-depleting compounds;
 - (2) Prohibit a person from intentionally causing or allowing CFCs to be released into the air from any source or process regulated under the law relating to the regulation of motor vehicle repairs; and
 - (3) Make each motor vehicle or mobile air conditioner serviced after January 1, 1994, by a person who does not possess a certificate from the director attesting to the fact that the person has successfully completed an approved training course dealing with the recovery and recycling of CFCs, halons, and other ozone-depleting compounds, a separate offense for which fines may be imposed.

These amendments make the provisions relating to prohibited practices consistent with the provisions relating to enforcement, insofar as the law relating to the regulation of motor vehicle repairs is concerned. These amendments also make the law relating to the regulation of motor vehicle repairs consistent with section 2 of this bill, relating to the training of persons who service appliances, mobile air conditioners, motor vehicles, commercial and residential air conditioners, and any other products that contain CFCs, halons, or ozone-depleting compounds and are regulated by the director pursuant to the law relating to the regulation of motor vehicle repairs, and the law relating to contractors;

- (6) Adding a new provision to make conforming amendments to the provision relating to penalties, necessitated by amendments made to the provision relating to the revocation, suspension, and renewal of licenses by your Committee on Agriculture and Environmental Protection, insofar as the law relating to contractors is concerned;
- (7) Specifying that the expending agency for the unspecified sum appropriated for fiscal year 1992-1993, is the department of commerce and consumer affairs; and
- (8) Making technical nonsubstantive changes.

Your Committee finds that this bill will help to reduce the emission of CFCs, halons, and other ozone-depleting compounds into the atmosphere.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2767, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2767, S.D. 2.

Signed by all members of the Committee except Senator Levin.

SCRep. 2243 Ways and Means on S.B. No. 2719

The purpose of this bill is to provide mechanisms to meet the federal requirements contained in the Clean Air Act, 42 U.S.C. §§7401 to 7671q, particularly in light of the amendments of 1990. The bill also enables the department of health to regulate the "emission of pollutants" rather than "pollution".

Specifically, the bill:

- (1) Establishes a permit program based on federal requirements which would be run solely on the fees collected by specified sources of pollution;
- (2) Requires that these sources pay fees in relation to the amount of pollutants emitted;
- (3) Provides criminal penalties for knowing violations;
- (4) Provides monitoring and recordkeeping requirements for sources;
- (5) Provides for judicial review for specified persons;
- (6) Establishes a clean air special fund to be funded by fees collected from sources of specified pollutants based on the amount of pollutant emitted;

- (7) Expands enforcement provisions;
- (8) Revises penalty provisions; and
- (9) Establishes a small business assistance program, a compliance advisory council, and a small business ombudsman for air pollution control.

The federal legislation requires the State to implement a program which meets the requirements of the Clean Air Act. If the State fails to do so within strict time limitations, it may lose highway funding and, moreover, the Environmental Protection Agency may then establish and run its own program for the State.

This bill provides the department of health with the essential authority necessary to implement full compliance with the federal requirements. The 1990 amendments to the federal Clean Air Act required the Environmental Protection Agency to issue final regulations by November 15, 1991. However, these final regulations have not yet been published. Based on the current unavailability of the regulations and the fact that the State is operating under a strict time frame, your Committee finds it necessary and appropriate to leave the details of compliance to the department of health through its rulemaking function, and to retain within the bill only those essential provisions capable of incorporation into the statutes at the present time.

Your Committee has amended the bill by changing the definition of "air pollutant" in section 2 of the bill to authorize the director of health to designate air pollutants, and by making technical, nonsubstantive changes for clarity and style.

It is the intent of your Committee, as stated in section 12 of this bill, that the department of health adopt clean air rules meeting specific federal requirements based on both the federal Clean Air Act and the federal rules when they are published in final form.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2719, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2719, S.D. 2.

Signed by all members of the Committee except Senator Levin.

SCRep. 2244 Ways and Means on S.B. No. 2318

The purpose of this bill is to appropriate funds for the restoration of the Palace Theatre in Hilo, Hawaii.

It is the intent of this bill to facilitate the renovation of the Palace Theatre so that it may be used by the residents of Hawaii for various performing arts. Public use of the theatre will be encouraged through reduced rates for students and senior citizens.

Your Committee finds that the Palace Theatre is listed on the Hawaii register of historic places and that its restoration will provide Hawaii residents and visitors with a multipurpose performing arts center.

Your Committee has amended this bill by changing the appropriation to a blank amount, and by making technical, nonsubstantive changes.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2318, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2318, S.D. 2.

Signed by all members of the Committee except Senator Levin.

SCRep. 2245 Ways and Means on S.B. No. 2407

The purpose of this bill is to establish a commission to coordinate statewide programs and activities in commemoration of the life of Queen Liliuokalani and the one hundredth anniversary of the overthrow of the kingdom of Hawaii.

The bill creates a special fund from which the expenses of the commission is to be paid and appropriates \$500,000 for fiscal year 1992-1993 to be deposited to that fund.

Your Committee has amended the bill by deleting the provision creating the Queen Liliuokalani commemoration fund and replacing the \$500,000 appropriation with an unspecified amount and by making technical, nonsubstantive amendments for purposes of clarity and style.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2407, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2407, S.D. 2.

Signed by all members of the Committee except Senator Levin.

SCRep. 2246 Ways and Means on S.B. No. 2662

The purpose of this bill is to authorize the state foundation on culture and the arts to use public funds to award grants to individuals and organizations who provide services which promote and preserve culture, arts, history, and humanities in Hawaii.

Your Committee finds that the S.D. 1 version deleted several important definitions and the provision requiring that the appropriations for foundation grants be subject to the allotment system generally applicable to all legislative

appropriations. Upon further consideration, your Committee has amended this bill to reinstate those provisions and other provisions to reflect the original version of the bill as introduced. However, as reflected in the S.D. 1 version, your Committee has retained the present language in section 9-3, Hawaii Revised Statutes, which makes the actions required of the foundation mandatory.

Your Committee has also made several technical, nonsubstantive amendments to the bill, including the deletion of obsolete language in section 9-3(8).

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2662, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2662, S.D. 2.

Signed by all members of the Committee except Senator Levin.

SCRep. 2247 Ways and Means on S.B. No. 2889

The purpose of this bill is to amend Act 329, Session Laws of Hawaii 1990, to include community-wide family activities as part of the family center demonstration project.

Your Committee agrees with the finding that the family centers provide a unique and innovative approach to addressing the multiple needs of dysfunctional families, and that the family centers assist in developing a sense of community through the sponsoring of family events.

Your Committee has amended the bill to ensure that the family centers make family literacy programs available, even though the centers do not necessarily operate the programs directly.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2889, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2889, S.D. 2.

Signed by all members of the Committee except Senator Levin.

SCRep. 2248 Ways and Means on S.B. No. 3177

The purpose of this bill is to appropriate funds to establish and implement a nurse practitioners training program for native Hawaiians by the University of Hawaii's school of nursing in conjunction with the department of health and primary health-care organizations.

Your Committee finds that there is a shortage of qualified nurse practitioners in Hawaii, particularly in rural communities comprised predominantly of native Hawaiians. Your Committee further finds that training of native Hawaiian nurse practitioners from and for these rural areas can improve the quality of life for these communities and preserve a sense of the community by having one of their own service their health-care needs.

Your Committee has amended this bill by changing the appropriation to a blank amount.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3177, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3177, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Levin.

SCRep. 2249 Ways and Means on S.B. No. 2237

The purpose of this bill is to subject the laws regulating the licensing of bail bond businesses, established by sections 804-61 and 804-62, Hawaii Revised Statutes. This will require the legislative auditor to conduct a "sunset" review of the regulatory law to determine if and how regulation of the industry should be conducted. Currently, little data exist on the industry to allow for adequate regulation of its practices.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2237, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Levin.

SCRep. 2250 Ways and Means on S.B. No. 3278

The purpose of this bill is to permit an additional appropriation to continue the study and refinement of statutes proposed in S.B. No. 3100, Relating to the Recodification of Financial Institutions Laws.

Your Committee agrees with the intent of the bill and with the amendments to the bill made by your Committee on Consumer Protection and Business Regulation, allowing the commissioner of financial institutions to assess fees on the industries that will be benefitted and impacted by this project.

Your Committee, upon further consideration, recommends that an additional appropriation in the amount of \$1 be made for the purpose of completing the proposed code of financial institutions. All sums appropriated are to be expended by the department of commerce and consumer affairs to complete the code, and shall not revert to the general fund. In addition, your Committee has amended section 2 of the bill to provide that it is not codified in the Hawaii Revised Statutes due to the temporary nature of that section. Finally, your Committee has made technical, nonsubstantive amendments to the bill for the purposes of style and clarity.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3278, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3278, S.D. 2.

Signed by all members of the Committee except Senators Levin and Solomon.

SCRep. 2251 Ways and Means on S.B. No. 2301

The purpose of this bill is to establish and to make an appropriation for a native Hawaiian and Hawaiian Peacemaking Center.

Your Committee finds that alternative forms of dispute resolution which incorporate traditional values and processes such as ho'oponopono should be available to Hawaiians through the office of Hawaiian affairs (OHA). This would help participants develop skills and abilities to cope with stressful situations and to put aside dysfunctional behavior. These dispute resolution alternatives are already part of OHA's human services plan to address conflict and stress management.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2301 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2252 Ways and Means on S.B. No. 2913

The purpose of this bill is to clarify provisions for individual housing account deductions under the income tax law.

Your Committee finds that the intent of the law was to allow individuals to build up savings towards the purchase of their first residence but individuals have been making short term deposits strictly for the benefit of the deduction. Even if the funds are actually used toward the purchase of a home, this practice constitutes an abuse of the legislature's intent to encourage actual savings. This bill operates to close that loophole.

Your Committee also recognizes that individuals who may have owned a home at one time and have not owned a home for more than five years would also benefit from individual housing account deductions. Accordingly, your Committee has amended this bill by expanding the group of taxpayers eligible for the deduction to include those individuals who have not owned a home in the five years prior to opening the individual housing account.

Your Committee has also moved the provision allowing married persons who file joint returns to deduct up to \$10,000 to the first paragraph of subsection (a), to eliminate the anomaly of providing for joint returns within the context of married persons filing separate returns.

Your Committee has made technical, nonsubstantive changes for purposes of style.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2913, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2913, S.D. 2.

Signed by all members of the Committee except Senators Levin and Solomon.

SCRep. 2253 Ways and Means on S.B. No. 2917

The purpose of this bill is to increase the tax credit for renters from \$50 to \$85.

Your Committee finds that the scarcity of affordable housing has not only exacerbated the homeless problem, but has also resulted in causing rental rates to skyrocket far above the national average. Tax relief for renters is more than warranted, and your Committee finds that this bill will channel needed tax savings to those most deserving.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2917 and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Levin.

SCRep. 2254 Ways and Means on H.B. No. 1815

The purpose of this bill is to appropriate \$70,000 for an environmental assessment database.

This measure provides funds for the office of environmental quality control to support the incorporation of data compiled from four thousand environmental assessments and negative declarations into the Hawaii environmental impact statement bibliographic database in a form accessible via personal computer.

Your Committee finds that this measure will enable the State, the counties, and the general public to access important information regarding actions that may affect the environment.

Your Committee has amended this measure by:

- (1) Changing the fiscal year of appropriation from 1991-1992, to 1992-1993;
- (2) Changing the effective date from July 1, 1991, to July 1, 1992;

- (3) Leaving the amount of the appropriation blank to allow further consideration of this matter; and
- (4) Making other technical nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1815, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1815, S.D. 1.

Signed by all members of the Committee except Senator Levin.

SCRep. 2255 Ways and Means on S.B. No. 2910

The purpose of this bill is to require persons electing to appeal an assessment of any tax to make full payment of the contested amounts prior to any adjudicative hearing. This is accomplished by adding a new section to chapters 243 and 247, Hawaii Revised Statutes, and amending sections 235-114 and 236D-15, Hawaii Revised Statutes. The bill will ensure uniformity and consistency in the state tax appeals process.

Your Committee received testimony from the Tax Foundation of Hawaii and the department of taxation. Your Committee is concerned that the bill as proposed may present a hardship to taxpayers in lower income brackets who cannot afford to pay the assessment before appealing it, therefore your Committee has amended this bill to exclude the requirement of payment before the appeal process where the liability does not exceed \$6,000.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2910, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2910, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Levin.

SCRep. 2256 Ways and Means on S.B. No. 805

The purpose of this bill is to authorize the state ethics commission to set the salary of its executive director.

Your Committee finds that section 84-35, Hawaii Revised Statutes, should be amended to return to the state ethics commission the authority to set the salary of its executive director, as had been the case from 1968 to 1982.

Your Committee also finds that no other executive director position of a state commission or board has its salary set by state statute. This is the case with respect to commissions most analogous to the state ethics commission, such as the campaign spending commission, the civil rights commission, and the Hawaii criminal justice commission. Similarly, the salary of the director of the office of information practice, an office that functions quite similarly to the state ethics commission, is also not set by statute. The state ethics commission should be on a par with these state agencies, and not in a class by itself.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 805 and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Levin.

SCRep. 2257 Ways and Means on S.B. No. 3171

The purpose of this bill is to fund the development of a pilot wastewater treatment demonstration facility by the department of health.

Your Committee finds that wastewater treatment is a pressing problem for both the country and the State. The State of Massachusetts has supported the development of a demonstration wastewater treatment facility using a revolutionary technology called the "solar aquatic" system which treats wastewater and its byproducts with only the natural processes of sunlight, plants, and animals in a carefully balanced ecosystem. This bill will provide for a pilot demonstration of that system.

Your Committee has amended this bill to change the sum appropriated to a blank amount. Your Committee has also made technical, nonsubstantive amendments for the purpose of clarity and style.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3171, as amended herein, and recommends that it pass Second Reading and be placed on the calendar for Third Reading in the form attached hereto as S.B. No. 3171, S.D. 1.

Signed by all members of the Committee except Senator Levin.

SCRep. 2258 Ways and Means on S.B. No. 3371

The purpose of this bill is to establish the statewide sex offender treatment program to ensure that the master plan for integrated services is successfully implemented.

The department of public safety will be the lead agency, and all other agencies assigned oversight in the area of sex offenses, including the departments of health and human services, the Hawaii paroling authority, and the judiciary, will establish by cooperative agreement a coordinating body to oversee development of sex offender treatment programs throughout the State.

The programs will concentrate on implementing the master plan, developing uniform treatment services, establishing comprehensive demographic data on sex offenders, research, fund raising, networking, and sharing information and resources.

Your Committee finds that incarceration has little impact on sex offenders and that this program, developed in furtherance of the objectives manifest in development of the master plan, is consistent with the intent of the legislature to provide an effective and uniform statewide spectrum of treatment and research relating to sex offenders.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3371 and recommends that it pass Third Reading.

Signed by all members of the Committee except Senators Levin and Solomon.

SCRep. 2259 Ways and Means on S.B. No. 3379

The purpose of this bill is to establish a mechanism by which the director of public safety may directly administer moneys received by the State from the federal government as reimbursement for housing federal prisoners.

The bill designates the director of public safety as administrator, and the director of finance as custodian, of federal funds so received. Under this arrangement, the director of public safety is authorized to expend up to \$1,500,000 in funds so received for repair and maintenance of state correctional facilities, with the remainder deposited to the credit of the general fund. The director of public safety, in consultation with the director of finance, is required to submit annual reports to the governor and the legislature on the implementation of this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3379 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2260 Ways and Means on S.B. No. 2964

The purpose of this bill is to provide initial funding for efforts to establish support and assistance to families, professionals, and persons with autism via the creation of a resource and technical assistance project.

Your Committee finds that current services available in Hawaii frequently do not meet the unique needs of persons with autism and that effective intervention and appropriate support to families are necessary in order to prevent large numbers of persons with autism from costly, long-term or even lifetime institutionalization.

Your Committee has amended this bill by changing the appropriation to a blank amount and making a technical nonsubstantive change.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2964, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2964, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Levin.

SCRep. 2261 Ways and Means on S.B. No. 2824

The purpose of this bill is to provide reimbursement to the counties for the cost of motor vehicle plates issued to the State.

Your Committee finds that, although the costs to the county may be relatively minimal, the aggregate costs of these plates over several years and the basic principle of reimbursement for products provided, warrant the passage of this bill.

Your Committee has amended this bill by making technical nonsubstantive changes.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2824, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. 2824, S.D. 2.

Signed by all members of the Committee except Senator Levin.

SCRep. 2262 Ways and Means on S.B. No. 2997

The purpose of this bill is to appropriate the sum of \$250,000, for fiscal year 1992-1993, to the department of accounting and general services, to plan and design the implementation of the Kahuku flood relief master plan, subject to the condition that the city and county of Honolulu provide \$250,000, and the federal government provide \$500,000, to plan and design the implementation of the Kahuku flood relief master plan.

Your Committee has amended this bill by changing the sum to be appropriated to the department of accounting and general services for fiscal year 1992-1993, from \$250,000, to an unspecified amount.

Your Committee finds that flooding in the Kahuku area causes widespread property damage and presents potential public health and safety problems, as well.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2997, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2997, S.D. 1.

Signed by all members of the Committee except Senator Levin.

SCRep. 2263 (Majority) Ways and Means on S.B. No. 1293

The purpose of this bill is to clarify and strengthen certain provisions in the laws relating to criminal injuries compensation.

Specifically, the bill does the following:

- (1) Clarifies that the attorney appointed to the commission is the chairperson;
- (2) Increases the maximum compensation allowed members of the criminal injuries compensation commission from \$10,000 to \$15,000 per year;
- (3) Provides that commission decisions shall be signed by the chairperson or, in the absence of the chairperson, another commission member;
- (4) Clarifies that to be compensable, an act or omission resulting in the injury or death of the victim and for which an arrest was not made must have been reported to the police within fourteen days, which reporting period may be extended upon a showing of good cause as determined by the commission;
- (5) Provides that compensation may not be paid unless the applicant cooperated with the police and the prosecuting attorney by providing information necessary for the apprehension and prosecution of the offender;
- (6) Prohibits the commission from considering an application for compensation made more than thirty months after the injury, death, or property damage; and
- (7) Provides an appropriation of \$30,000 for fiscal biennium 1991-1993 to be expended by the Department of Public Safety for the increased compensation authorized pursuant to paragraph (1) above.

Your Committee has amended this bill by deleting its contents and substituting provisions concerning contributions by inmates. As amended, the bill now provides that not more than twenty per cent of the wages earned by able-bodied prisoners shall be deposited to the credit of the criminal injuries compensation fund.

Currently, up to forty per cent of an inmate's earnings from the correctional industries program may be reimbursed to the fund for payments made by the criminal injuries compensation commission to victims of the inmate's violent crime. Payments will automatically be made from the earnings of each inmate incarcerated for violent crimes, regardless of whether a claim has been filed for compensation, and also gives the fund statutory authority to receive these moneys.

Your Committee finds that there is always a victim of a violent crime, whether it be a person or society as a whole, and that each inmate incarcerated for a violent crime should contribute a portion of that inmate's prison earnings to compensate crime victims in general. Your Committee also finds that this bill will enable the department of public safety to qualify for certification under the federal prison industries enhancement program, without which neither the department nor its joint venture partners may engage in business in which goods and services are sold in interstate commerce or to the federal government. One requirement of the enhancement program is the automatic payment provision.

The bill, as amended, also provides that the payments shall be made to the fund on a quarterly basis and the amount paid shall be reported each year to the legislature and the criminal injuries compensation commission.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1293, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1293, S.D. 2.

Signed by all members of the Committee except Senators Hagino and Levin.
Senator George did not concur.

SCRep. 2264 Ways and Means on S.B. No. 2415

The purpose of this bill is to establish a new law to regulate like-kind exchange intermediaries.

Your Committee finds that this bill provides safeguards to ensure that entities engaging in like-kind exchange activities are statutorily regulated as they are entrusted by the citizens of Hawaii with title to real property and large sums of money. Your Committee finds that licensure of like-kind exchange intermediaries will provide protection to the public.

The new law resembles chapter 449, Hawaii Revised Statutes, relating to escrow depositories, as the issues involved in both like-kind exchange intermediaries and escrow depositories are similar.

Your Committee has made technical, nonsubstantive amendments to correct a grammatical error.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2415, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2415, S.D. 2.

Signed by all members of the Committee except Senators Hagino and Levin.

SCRep. 2265 Ways and Means on S.B. No. 3117

The purpose of this bill is to establish a permanent child abuse prevention program known as "Healthy Start".

Your Committee agrees with the finding that the three-year demonstration project has been a success based on the outcomes and on the overwhelming support for the project.

The department of health conducted an evaluation of Healthy Start services for the 1,204 families enrolled in the programs from 1987-1989. As of June 1990, there was no abuse for 99.8 per cent, and no neglect for 99.5 per cent of these families. For the more than five thousand families assessed as not needing extra support, there was no abuse or neglect for 99.75 per cent of the families. Furthermore, we now have information regarding the first cohort of children to graduate at age five; all children were fully immunized, two-thirds were enrolled in Head Start, parental substance abuse and spouse abuse were eliminated for nearly all families.

It is important to note that this is not a categorical program addressing only child abuse and neglect, but rather is an integral part of maternal child health services, focusing on family functioning, child health and development issues, throughout our communities. It is also closely linked to the Zero to Three programs, including provision of early developmental screening and intervention with delays. These services are most relevant to the governor's educational goal that all children shall enter school ready and able to learn. Healthy Start provides for coordinated, community based family support services which ease access to a wide range of services for the most needy families, who are otherwise least likely to use them.

Enactment of this bill assures full implementation and continuity of a successful and high quality service, effective in not only preventing abuse and neglect among our most vulnerable population of children from the ages of birth to five years old. It also avoids duplication of community services, assures utilization of these services by those most in need, provides a strategy for improving health and development of our most disadvantaged children, and holds promise of greater school readiness for the population which historically fails in school, with a host of costly consequences.

Your Committee has amended this bill by: (1) specifying that the "healthy start" program is modeled after the successful demonstration project; (2) clarifying the means by which program services are rendered; and (3) making technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3117, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3117, S.D. 2.

Signed by all members of the Committee except Senators Levin and Solomon.

SCRep. 2266 Ways and Means on S.B. No. 2257

The purpose of this bill is to appropriate funds for the department of the attorney general to develop a model for the collection of hate crime data in Hawaii. An expert consultant would be employed to develop the model data collection mechanism and at the same time ascertain the appropriate hardware, software, and personnel for the State and respective police departments. In addition, the department of the attorney general is required to submit the model, together with findings, recommendations, and any necessary implementing legislation, to the legislature twenty days before the convening of the regular session of 1993.

Your Committee has amended the bill by changing the appropriation to a blank amount and by making technical, nonsubstantive amendments for clarity and style.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2257, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2257, S.D. 2.

Signed by all members of the Committee except Senator Levin.

SCRep. 2267 Ways and Means on S.B. No. 2709

The purpose of this bill is to appropriate \$15,000,000 in emergency funds for operating expenses of the community hospitals system for fiscal year 1992-1993.

Your Committee finds that the community hospitals system will run out of appropriated funds before the end of the fiscal year and the department will be unable to meet its fiscal obligations to operate its hospitals.

Your Committee finds that the department of health made a similar request for \$15,000,000 in emergency appropriations for operating expenses of the community hospitals system for fiscal year 1990-1991 which was approved in Act 40, Session Laws of Hawaii 1991. That earlier request cited the following reasons for the emergency appropriation:

- (1) Rapid escalation of health care costs in Hawaii;
- (2) Average inflation rate of thirteen per cent for the health care industry; and
- (3) Substantial increases in the cost of personnel, equipment, and medical supplies.

The reasons cited for the current emergency request are identical, with the additional reason that no provision was made in the budget for collective bargaining costs (but which is actually a subset of the already cited cost of personnel).

Your Committee further finds that the legislature was concerned enough about the operational and financial management of the community hospitals system to require the legislative auditor to conduct a management and financial study of the division of community hospitals in section 35 of Act 296, Session Laws of Hawaii 1991. The report, entitled, Study of the Division of Community Hospitals, Report No. 92-6, dated January, 1992, stated that concerns about the division's collections of accounts receivable and the ability of the Community Hospitals Information Processing System (CHIPS) to provide adequate financial and operational information led to the request for the audit.

The auditor found that, despite expenditures of over \$11,000,000, CHIPS is problem-ridden and that it was not generating the financial and operational information that division and hospital administrators need to manage the facilities in a businesslike way. The report also stated that the source of the financial and operational problems goes much deeper and that state laws and policies have resulted in unrealistic budgets, cash flow problems, recurrent deficits, and poor financial management.

In addition, the auditor found that delays in billings and collections fell below industry standards and have resulted in millions of dollars in lost revenues. For example, for the year ended 1990, the hospitals had a combined accounts receivable outstanding balance of \$56,000,000.

Your Committee finds that the reason the department has run out of money does not lie exclusively in causes beyond the department's control such as escalating health care costs in Hawaii, high average inflation rate for the health care industry, and increasing costs of personnel, equipment, and medical supplies. Other industries also face similar problems. The private health care sector cannot appeal for repeated emergency appropriations.

Your Committee believes that the department of health has to shoulder its share of responsibility for the poor financial condition of its community hospitals and that pro forma requests for emergency funding are inappropriate. Your Committee further believes that the department of health has not done enough to help itself. For example, by improving just one aspect of its operation -- billings and collections -- the department would not have had to make successive annual requests of \$15,000,000 for emergency funds for operating expenses had it collected just half of the \$56,000,000 outstanding at the end of 1990.

Your Committee finds that it is unfair for the residents of Oahu, who contribute the bulk of tax revenues, to continue to subsidize the inefficient management and operation of the community hospitals.

Your Committee further finds that the private health care sector has been willing and eager to share its knowledge and expertise with the department of health but that the department has been hesitant to take the needed advice.

Your Committee has, therefore, amended this bill to require the department of health, as soon as possible after the effective date of this Act, to meet in good faith in a series of meetings with private sector health care facility operators including operators of private hospitals, insurance providers, private health care administrators, and private health care professionals to avail itself of the private sector's collective knowledge and expertise for the operation of the community hospitals and the effective and efficient administration and financial management of the community hospitals system. Based on the meetings, the department shall report its findings to the legislature no later than September 30, 1992. The report shall include the private sector's specific suggestions and recommendations for improving the administration and management of the community hospitals system and provide concrete, specific, and detailed steps for the immediate implementation of these suggestions.

Your Committee has also made technical, nonsubstantive amendments for the purpose of clarity and style.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2709, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2709, S.D. 1.

Signed by all members of the Committee except Senator Levin.

SCRep. 2268 Ways and Means on S.B. No. 2727

The purpose of this bill is to facilitate the transition of the community hospitals on Maui and Hawaii to nonprofit corporate status.

Your Committee finds that the State's involvement in the administration of the community hospitals began in the 1950's and 1960's through operational subsidies to county hospitals. In 1967, hospital management functions and employees were transferred to the State. The hospitals were expected to generate enough income to support their operating costs, but over the years, state general revenue support has been increasingly necessary.

Your Committee further finds that a recent report issued by the legislative auditor indicates that the hospitals are plagued by serious financial problems, which have not been alleviated by the State's continuous subsidies. The auditor reports that the community hospitals' financial problems are due, in part, to inadequate financial and operational management. Further, the auditor indicated that certain state laws and policies exacerbate these management problems. It is the recommendation of the auditor that a public corporation be established to administer the hospitals, and that a team headed by a special master be appointed to facilitate the transition of the administration of the hospitals to a nonprofit corporation.

Your Committee has made the following amendments to this bill:

- (1) References to facilitating the transition of the community hospitals to nonprofit organizations have been deleted. The intent of the bill is to restructure the community hospitals according to the most efficient and fiscally sound means of governance, operations, and management of these hospitals;

- (2) The transition team to be headed by the special master shall also include private health care providers and consumers. The governor shall appoint members of the team who are representatives of the executive branch, and the senate president and speaker of the house of representatives shall jointly appoint the other members of the team;
- (3) The appropriation shall be expended by the research corporation of the University of Hawaii; and
- (4) Technical, nonsubstantive amendments have been made for purposes of style and clarity.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2727, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2727, S.D. 2.

Signed by all members of the Committee except Senator Levin.

SCRep. 2269 Ways and Means on S.B. No. 3024

The purpose of this bill is to appropriate funds for one hundred sixty-five teacher positions to reduce the student-teacher ratio in the third grade to twenty students per class and to appropriate funds for one hundred twenty teacher positions to reduce the student-teacher ratio in core subjects for grades seven through ten.

Your Committee finds that lower student-teacher ratios provide more opportunities for students to receive individualized attention from their teachers and promote a positive attitude toward learning. This is especially true in the early learning years.

Your Committee has amended this bill by removing the appropriation for the one hundred twenty teacher positions to reduce the teacher ratio in grades seven through ten. Your Committee has further amended this bill by leaving the appropriated amount blank to allow for further consideration of the one hundred sixty-five teacher positions to reduce the student-teacher ratio to twenty per class in the third grade.

Your Committee has also made technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3024, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3024, S.D. 2.

Signed by all members of the Committee except Senator Levin.

SCRep. 2270 Ways and Means on S.B. No. 2848

The purpose of this bill is to appropriate funds to the state land bank program (LNR 101) for the acquisition and management of lands owned by the Bishop Museum within Waipio Valley, island of Hawaii.

Your Committee agrees with the findings in this bill that state acquisition of Bishop Museum landholdings in Waipio Valley is essential for the protection, preservation, and perpetuation of the agricultural, cultural, and economic uses of the valley for future generations. Your Committee has amended this bill by making technical, nonsubstantive amendments for purposes of clarity and style.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2848, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2848, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Levin.

SCRep. 2271 Ways and Means on S.B. No. 2660

The purpose of this bill is to raise the expenditure threshold for public advertisement for sealed bids on state contracts from \$8,000 to \$35,000.

The bill also provides for informal bidding where the expenditure is more than \$15,000 but less than \$35,000; requires a performance bond for all bids of \$15,000 or more; applies the advertising and bidding exemptions to expenditures of less than \$35,000 for public equipment and facility repairs and emergency roadwork; exempts the purchase of medical diagnostic or therapeutic equipment for community hospitals from aspects of the bidding process; and requires the department of accounting and general services and the department of health to submit a report to the legislature on or before January 1, 1993, analyzing and evaluating the effects of the exemption for community hospitals.

Upon further consideration, your Committee finds that the expenditure thresholds are too high and has, therefore, amended the bill to reflect the original intent of S.B. No. 2660, as introduced. The bill provides for the following:

- (1) For formal bidding, changes the threshold from \$8,000 or more to \$15,000 or more; and
- (2) For informal bidding, changes the threshold from between \$4,000 and \$8,000 to between \$8,000 and \$15,000, with the exception of public works or repairs and maintenance of buildings, roads and other site improvements for which the level is changed from between \$4,000 and \$15,000 to between \$8,000 and \$25,000; and repair of publicly owned or leased heavy equipment, automotive equipment, sewage treatment plants, utility lines, and emergency roadway work for which the level is set at between \$8,000 and \$15,000.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2660, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2660, S.D. 2.

Signed by all members of the Committee except Senators Levin and Solomon.

SCRep. 2272 Ways and Means on S.B. No. 2541

The purpose of this bill is to provide high technology companies with subsidies for state general excise taxes paid on equipment purchased to assist in the production of high technology products or services.

The bill sets out an application procedure for the subsidies and provides for the payment of subsidies from the high technology research and development revolving fund, in accordance with rules established by the high technology development corporation. The bill also provides for the transfer of \$50,000 from the Hawaii capital loan revolving fund to the high technology research and development revolving fund, and requires the high technology development corporation to repay the transferred amount by December 31, 1993.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2541, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Levin.

SCRep. 2273 Ways and Means on S.B. No. 3216

The purpose of this bill is to appropriate funds for an eminent domain action to acquire title to real property in the area around the Kamehameha birth site, the Mo'okini Luakini, the Lono Heiau, and the Kane Heiau in the county of Hawaii.

Your Committee finds that this area is an extremely significant cultural and historical site that should be preserved and protected from any development of the surrounding real estate. Accordingly, your Committee finds that an appropriation of funds is necessary to acquire title to the real property for this purpose, and that the acquisition is for a public purpose.

Your Committee has amended this bill by:

- (1) Deleting parcels 3 and 10 and the 302,475 square feet of land bordering the existing Kukuipahu Hale site;
- (2) Changing the expending agency from the attorney general to the department of land and natural resources; and
- (3) Making technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3216, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3216, S.D. 2.

Signed by all members of the Committee except Senators Hagino, Levin and Solomon.

SCRep. 2274 Ways and Means on S.B. No. 2625

The purpose of this bill is to provide an income tax refund or an income tax credit in an unspecified amount to the residents of the State to satisfy constitutionally mandated requirements.

Your Committee finds that Article VII, section 6, of the Constitution of the State of Hawaii requires the legislature to provide a tax refund or tax credit "whenever the state general fund balance at the close of each of two successive years exceeds five percent of general fund revenues for each of the two fiscal years." Your Committee finds that the conditions for the constitutionally mandated income tax refund or credit have been met.

The 1992 income tax refund or credit is provided for all residents of the State except for persons who have been detained in prison, a youth correctional facility or a jail for the full taxable year. This increases, from six months in 1991, to one year in 1992, the eligibility for the credit of those people incarcerated in the facilities stated above.

Your Committee has amended this bill by correcting the name of the "excise tax credit" to the "food/excise tax credit."

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2625, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2625, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Hagino and Levin.

SCRep. 2275 Ways and Means on S.B. No. 3424

The purpose of this bill is to make an appropriation to the department of education to establish a special recruitment team to fill teaching positions in rural or remote areas of the State.

Your Committee has amended the bill by providing that recruitment teams shall consist of personnel specialists and principals from all districts within the department. These teams will be providing to prospective applicants updated information regarding needs of the department and conditions found in both urban and rural school communities in the State.

Your Committee agrees with the finding that the recruitment and retention of teachers serving in these areas requires additional efforts on the part of the department.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3424, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3424, S.D. 2.

Signed by all members of the Committee except Senators Hagino, Levin and Solomon.

SCRep. 2276 Ways and Means on S.B. No. 3292

The purpose of this bill is to establish, within the office of children and youth, a program to develop a comprehensive, coordinated system of early childhood programs and services for children from birth to age five.

Your Committee has amended this bill by deleting its contents and inserting provisions to establish, within the office of children and youth, a pilot project to develop and coordinate early childhood education and care programs and services within one community in the State. Specifically, this bill:

- (1) Requires the office of children and youth to implement and coordinate efforts in early childhood education and care at several levels in order to create a model that can be replicated in other communities throughout the State. These efforts include, but are not limited to:
 - (A) Implementation, within the selected community, of a parents as first teachers project;
 - (B) Replication, within the selected community, of the families for R.E.A.L. project;
 - (C) Implementation, within the selected community, of the preschool open doors project;
 - (D) Implementation, within the selected community, of other early childhood programs and services; and
 - (E) A formative and summative evaluation of the pilot project, conducted by the office of children and youth;
- (2) Authorizes the office of children and youth, without regard to the civil service and compensation laws, to employ necessary personnel, adequately qualified by training and experience, to implement the pilot project;
- (3) Requires the office of children and youth to submit a progress report with preliminary findings and recommendations to the legislature prior to the convening of the regular session of 1993, and a final report prior to the convening of the regular session of 1994; and
- (4) Appropriates the sum of \$420,000, for fiscal year 1992-1993, to the office of the governor, for the implementation of the early childhood education and care pilot project.

Your Committee finds that this bill could provide the foundation for a universal, voluntary system of early childhood education and care for Hawaii's families with young children.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3292, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3292, S.D. 2.

Signed by all members of the Committee except Senators Hagino, Levin and Solomon.

SCRep. 2277 Ways and Means on S.B. No. 2918

The purpose of this bill is to add two new definitions for "large tour vehicle" and "medium tour vehicle" under chapter 251, Hawaii Revised Statutes, rental vehicle surcharge tax, to make it consistent with the public utilities commission categorization. This bill also clarifies the definition of "rental motor vehicle" or "vehicle" to exclude light capacity trucks from the surcharge.

It is the intent of this bill to allow for flexibility in the law to conform with the public utilities commission categorization even if the categorization changes in the future. It is also the intent of this bill that local residents should not have to pay the surcharge to the extent that they usually rent the light capacity trucks.

Your Committee finds that this administration bill is necessary as a housekeeping measure and also to effectuate the original intent of the law to apply the surcharge to tourists rather than residents.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2918, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senators Hagino, Levin and Solomon.

SCRep. 2278 Ways and Means on S.B. No. 2947

The purpose of this bill is to establish a quality assurance committee to monitor the delivery of services to persons with developmental disabilities.

Your Committee finds that there is a need to monitor service providers regarding the standards of care and follow-up practices to assure improvements in services are provided to the developmentally disabled.

Your Committee has made technical, nonsubstantive amendments to this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2947, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2947, S.D. 2.

Signed by all members of the Committee except Senators Hagino and Levin.

SCRep. 2279 Transportation and Intergovernmental Relations on S.C.R. No. 20

The purpose of this Concurrent Resolution is to request that the Department of Transportation and the Office of State Planning conduct a study on methods for improving traffic flow in the Central and Leeward Oahu regions.

Your Committee finds that it would be prudent to study alternatives to meet future transportation requirements for Central and Leeward Oahu, areas projected for major population growth.

Your Committee has amended the Concurrent Resolution to delete the list of specifically enumerated ways to relieve traffic congestion.

Your Committee has further amended the Concurrent Resolution by removing the Department of Transportation from having to work on that portion of the study relating to land use planning.

Your Committee on Transportation and Intergovernmental Relations concurs with the intent and purpose of S.C.R. No. 20, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 20, S.D. 1.

Signed by all members of the Committee.

SCRep. 2280 Transportation and Intergovernmental Relations on S.R. No. 18

The purpose of this Resolution is to request that the Department of Transportation and the Office of State Planning conduct a study on methods for improving traffic flow in the Central and Leeward Oahu regions.

Your Committee finds that it would be prudent to study alternatives to meet future transportation requirements for Central and Leeward Oahu, areas projected for major population growth.

Your Committee has amended the Resolution to delete the list of specifically enumerated ways to relieve traffic congestion.

Your Committee has further amended the Resolution by removing the Department of Transportation from having to work on that portion of the study relating to land use planning.

Your Committee on Transportation and Intergovernmental Relations concurs with the intent and purpose of S.R. No. 18, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 18, S.D. 1.

Signed by all members of the Committee.

SCRep. 2281 Judiciary on H.B. No. 2318

The purpose of this bill is to require that gubernatorial appointments to fill legislative vacancies be done in a timely manner.

The prompt filling of a legislative vacancy is important to the residents of the district who deserve representation at all times. The person appointed to fill a vacancy needs time to become acquainted with the legislative process, assemble a staff, and formulate a legislative agenda for the next session.

If enacted, this bill will require the Governor to make an appointment within 60 calendar days following the first day of a vacancy in the State House of Representatives or the State Senate. The appointee must, at the time of vacancy, be either nonpartisan, if the appointee's predecessor was nonpartisan, or a member of the same political party as the person the appointee succeeds.

The substance of this bill has passed the Legislature twice and twice it has been vetoed. It is on a fast track this session to assure an opportunity for the legislature to override a third gubernatorial veto before adjournment of the regular session.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2318 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt and Reed.

SCRep. 2282 Legislative Management on H.B. No. 2563

The purpose of this bill is to implement the provisions of Chapter 21F, Hawaii Revised Statutes, relating to legislative fiscal and budget analysis.

The bill would:

- (1) Require the Joint Legislative Budget Committee to submit a progress report on the establishment of the Office of the Legislative Analyst;
- (2) Appropriate \$250,000 for the operational expenses of the Office for fiscal year 1992-1993; and
- (3) Require the committee to review the job performance of the Legislative Analyst biennially.

Your Committee has amended the bill by changing the amount of the appropriation to \$1 and making nonsubstantive technical amendments for the purposes of clarity and style.

Your Committee on Legislative Management is in accord with the intent and purpose of H.B. No. 2563, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2563, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2283 Science, Technology and Economic Development on S.R. No. 22

The purpose of this Resolution is to request Hawaii's congressional delegation to strongly support the reauthorization of the federal small business innovation research (SBIR) program beyond its current expiration date in 1993.

Your Committee finds that the SBIR program has been very successful both nationally and locally. During fiscal years 1989-1990 and 1990-1991, the SBIR program has awarded approximately \$3.6 million to Hawaii companies to encourage commercial research to create new products and processes.

Your Committee on Science, Technology and Economic Development concurs with the intent and purpose of S.R. No. 22 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2284 Science, Technology and Economic Development on S.C.R. No. 25

The purpose of this Concurrent Resolution is to request Hawaii's congressional delegation to strongly support the reauthorization of the federal small business innovation research (SBIR) program beyond its current expiration date in 1993.

Your Committee finds that the SBIR program has been very successful both nationally and locally. During fiscal years 1989-1990 and 1990-1991, the SBIR program has awarded approximately \$3.6 million to Hawaii companies to encourage commercial research to create new products and processes.

Your Committee on Science, Technology and Economic Development concurs with the intent and purpose of S.C.R. No. 25 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2285 Science, Technology and Economic Development on S.C.R. No. 31

The purpose of this Concurrent Resolution is to request federal support for the establishment of a ninety-day, regional petroleum reserve.

The intent of this Concurrent Resolution is to endorse the need for a dedicated regional petroleum reserve because of Hawaii's vulnerability to energy shortages based on its geographic location and dependence on imported oil.

Your Committee has made technical amendments to this Concurrent Resolution.

Your Committee on Science, Technology and Economic Development concurs with the intent and purpose of S.C.R. No. 31, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 31, S.D. 1.

Signed by all members of the Committee.

SCRep. 2286 Judiciary on H.B. No. 2322

The purpose of this bill is to propose a constitutional amendment to change the last permissible starting date for the Reapportionment Commission from March 1 to May 1.

Your Committee further extended the last permissible starting date, from May 1 to June 1. Your Committee finds that a three-month delay will give the Lieutenant Governor's staff adequate time to obtain U.S. census data, make necessary adjustments to convert the data into the population base employed by the Commission, and complete other preliminary tasks before the Commission is constituted.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2322, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2322, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Holt.

SCRep. 2287 Judiciary on H.B. No. 2327

The purpose of this bill is to propose a constitutional amendment to change the legislature apportionment base from registered voters to permanent resident population, which was the base selected by the 1991 Reapportionment Commission in the development of its plan. See 1991 Reapportionment Commission's Final Report and Reapportionment Plan (1991) ("The Final Report").

Based on the reasons set forth in Chapter III of The Final Report, your Committee also supports the use of a permanent resident population base and made technical amendments for purposes of clarity and style.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2327, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2327, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Holt.

SCRep. 2288 Judiciary on H.B. No. 2715

The purpose of this bill, which is a housekeeping measure, is to specify that interest earned on court deposits shall be credited to the State unless otherwise specified by court order or by statute.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2715, H.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Holt.

SCRep. 2289 Tourism and Recreation on S.C.R. No. 7

The purpose of this Concurrent Resolution is to request that airlines, hotels, and other representatives of the Hawaii tourist industry provide greater discount rates to State residents.

Your Committee finds that despite "kamaaina rates," many Hawaii residents are unable to afford the high costs of tourist-related services. Your Committee believes that hotels, airlines, and other tourist-related service companies should offer greater reduced rates to State residents during the tourist off-season and other slow periods. This would not only serve to bolster the occupancy rates of hotels, but would also increase participation in all areas of tourist-related activities.

Your Committee on Tourism and Recreation concurs with the intent and purpose of S.C.R. No. 7 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2290 Tourism and Recreation on S.R. No. 7

The purpose of this Resolution is to request that airlines, hotels, and other representatives of the Hawaii tourist industry provide greater discount rates to State residents.

Your Committee finds that despite "kamaaina rates," many Hawaii residents are unable to afford the high costs of tourist-related services. Your Committee believes that hotels, airlines, and other tourist-related service companies should offer greater reduced rates to State residents during the tourist off-season and other slow periods. This would not only serve to bolster the occupancy rates of hotels, but would also increase participation in all areas of tourist-related activities.

Your Committee on Tourism and Recreation concurs with the intent and purpose of S.R. No. 7 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2291 Tourism and Recreation on S.C.R. No. 27

The purpose of this concurrent resolution is to urge the State of Hawaii to explore alternative marketing strategies to attract greater business and convention travel to Hawaii.

This resolution received unanimous support from the Hawaii Convention Park Council, the Hawaii Visitors Bureau, the Waikiki Convention Center Authority, and the Department of Business, Economic Development, and Tourism.

Your Committee finds that greater business and convention travel to Hawaii would strengthen the State's economy, diversify its visitor industry, create new jobs, and increase tax revenues, especially when the leisure tourist season is at a downturn. Business and convention travel can be a stable and lucrative complement to Hawaii's often unpredictable leisure visitor industry.

Your Committee on Tourism and Recreation concurs with the intent and purpose of S.C.R. No. 27 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2292 Tourism and Recreation on S.R. No. 24

The purpose of this resolution is to urge the State of Hawaii to explore alternative marketing strategies to attract greater business and convention travel to Hawaii.

This resolution received unanimous support from the Hawaii Convention Park Council, the Hawaii Visitors Bureau, the Waikiki Convention Center Authority, and the Department of Business, Economic Development, and Tourism.

Your Committee finds that greater business and convention travel to Hawaii would strengthen the State's economy, diversify its visitor industry, create new jobs, and increase tax revenues, especially when the leisure tourist season is at a downturn. Business and convention travel can be a stable and lucrative complement to Hawaii's often unpredictable leisure visitor industry.

Your Committee on Tourism and Recreation concurs with the intent and purpose of S.R. No. 24 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2293 Tourism and Recreation on S.C.R. No. 34

The purpose of this concurrent resolution is to request the Department of Business, Economic Development, and Tourism to urge the Pacific Asia Travel Association to relocate its headquarters to Hawaii.

Testimony in support of this resolution was submitted by the Hawaii Visitors Bureau and the Department of Business, Economic Development, and Tourism.

Your Committee finds that the Pacific Asia Travel Association will be considering the relocation of its headquarters within the next year. Your Committee believes that the relocation of the Association's headquarters to Hawaii is in conformance with the State's objective of promoting tourism in the Pacific Asia area and would bolster Hawaii's leadership role in this increasingly important region.

Your Committee on Tourism and Recreation concurs with the intent and purpose of S.C.R. No. 34 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2294 Tourism and Recreation on S.R. No. 27

The purpose of this resolution is to request the Department of Business, Economic Development, and Tourism to urge the Pacific Asia Travel Association to relocate its headquarters to Hawaii.

Testimony in support of this resolution was submitted by the Hawaii Visitors Bureau and the Department of Business, Economic Development, and Tourism.

Your Committee finds that the Pacific Asia Travel Association will be considering the relocation of its headquarters within the next year. Your Committee believes that the relocation of the Association's headquarters to Hawaii is in conformance with the State's objective of promoting tourism in the Pacific Asia area and would bolster Hawaii's leadership role in this increasingly important region.

Your Committee on Tourism and Recreation concurs with the intent and purpose of S.R. No. 27 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2295 Tourism and Recreation on H.B. No. 216

The purpose of this bill is to require the Department of Business, Economic Development, and Tourism to develop a five-year marketing plan, rather than the biennial plan currently required under Section 203-5, Hawaii Revised Statutes. The bill also requires that any contracts between the Office of Tourism and the Hawaii Visitors Bureau extend no longer than the remainder of the fiscal biennium, and that the five-year marketing plan be updated annually and submitted to the Legislature, separate from the executive budget request.

Your Committee heard testimony in support of this measure from the Waikiki/Oahu Visitors Association and the Hawaii Visitors Bureau.

Your Committee finds that marketing is an essential tool for enhancing the development of Hawaii's tourist industry. Your Committee believes that the development of a long-term marketing strategy, targeting both new and established markets, would ensure the continued health and viability of the State's economy.

Your Committee has amended the bill by changing the length of the marketing plan from five to three years, and making nonsubstantive technical amendments for the purposes of clarity and style.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of H.B. No. 216, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 216, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2296 Judiciary on H.B. No. 1237

The purpose of this bill is to afford greater protection to individuals, businesses, and governmental agencies from tampering, interference, damage and unauthorized access to lawfully created computer data and computer systems. This bill replaces the current penal provisions on computer fraud and unauthorized computer use and establishes different grades of a new offense called "computer crime."

Your Committee has amended the bill to better effectuate its intent.

First, your Committee reclassified the offense as two separate offenses -- computer fraud and unauthorized computer use -- to clarify what is meant by the term "computer crime."

Second, references to monetary values were deleted for the following reasons:

1. Monetary values can be placed on hardware and software (criminal property damage charges can be brought up on these values), but there are problems placing monetary values on data. Experts and consultants can come to an agreement of hardware and software values based on retail values, however, the value of data can vary from person to person or company to company.
2. There is also a problem of arriving at a dollar amount for putting a computer system "back on line". In the past, this cost was combined with the perceived value of the data to reach the prescribed dollar amount in the statute. A person, business, or governmental agency will not have a problem on the cost if someone is hired to put the system back on line, the amount will be reflected in the invoice. However, a dollar amount will be difficult to reach if the person, business or governmental agency has a person "in house" to do the work. How is the monetary value to be derived under these situations -- a percentage of the persons salary or the hourly wage? Again, deleting the monetary value from the statute will alleviate the problem of trying to reach a prescribed dollar amount.
3. Deleting the dollar amounts would make it consistent with other fraud offenses. See e.g., HAWAII REV. STAT. §708-851 and §708-852 (felony forgery offenses).
4. Deleting the monetary value and making unauthorized computer use a felony, regardless of intent, should also deter "hackers" who may be clever enough to keep damages or thefts under prescribed dollar amounts. It may also deter hackers like Cornell University graduate student Robert T. Morris, who in 1988, shut down a nationwide computer system and received only a fine and probation. Stiffer penalties would serve as a deterrent for computer crimes.

Finally, your Committee eliminated the different grades of offenses and made both the offenses of computer fraud and unauthorized computer use class C felonies. Deleting the degrees of crime makes this bill consistent with section 708-8100, Hawaii Revised Statutes, relating to other types of fraud, such as the fraudulent use of a credit card, see HAWAII REV. STAT. §708-8100.

Eliminating the grades of offenses should also be serious enough to deter "pranksters". Your Committee recognizes that there may be concerns that a person who plays a joke or enters a computer system unauthorized and exits without using, damaging or deleting the system, should not be charged with a felony. However, making the offense a felony is consistent with other offenses pertaining to the unauthorized use of another's property, see e.g., HAWAII REV. STAT. §708-836 (unauthorized use of a propelled vehicle). Computer offenses should not be treated any more lightly than other types of property offenses.

Your Committee finds that these amendments will conform this measure to current statutory scheme and sufficiently simplify computer offenses to adequately put would-be offenders on notice and make it easier for law enforcement to enforce the law, thereby better effectuating the intent and purpose of the bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1237, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1237, H.D. 1, S.D. 1, and be recommitted to the Committee on Judiciary.

Signed by all members of the Committee except Senator Tungpalan.

SCRep. 2297 Judiciary on H.B. No. 2337

The purpose of this bill is to amend the process for changing a minor's name by authorizing the family court to waive notice to a noninitiating, noncustodial parent when the court finds that a waiver is necessary for the protection of the minor.

Currently, section 574-5(a)(2)(C), Hawaii Revised Statutes, authorizes the family court to order the name change of a minor without the consent of an absent parent only if it is in the best interest of the child and there is proof that all reasonable efforts have been made to locate that parent. When that provision was enacted in 1986, its purpose was to address circumstances where the non-custodial parent could not be located. It did not address, nor does the legislative history suggest that it was intended to apply to, cases where an abusive non-custodial parent, who is not otherwise in direct contact with the minor, may learn the whereabouts of the minor as a result of notice of the proceeding or of the new name. See CONF. COM. REP. NO. 18, 13th Haw. Leg., Reg. Sess., 1986 SENATE J. 729; S. STAND. COM. REP. NO. 810, 13th Haw. Leg., Reg. Sess., 1986 SENATE J. 1164; H.R. STAND. COM. REP. NO. 387, 13th Haw. Leg., Reg. Sess., 1985 HOUSE J. 1163. This bill addresses a "gap" in the law by giving the court discretion to dispense with notice if giving notice would pose a threat of harm to the child.

Your Committee finds that, in most cases, the family court should require notice or reasonable efforts to contact a parent before granting a name change. However, your Committee also recognizes that there will be exceptional cases in

which a real threat of harm to the child exists. In those instances, the family court is in the best position to determine whether the granting of a name change without the consent of a parent is necessary. Your Committee, therefore, finds that this bill is necessary to insure that the family court has the flexibility to waive notice in appropriate cases.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2337 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Tungpalan.

SCRep. 2298 Tourism and Recreation on S.C.R. No. 26

The purpose of this concurrent resolution is to request the Legislative Reference Bureau to conduct an audit of the Hawaii Visitors Bureau.

Testimony in support of this measure was submitted by the Department of Business, Economic Development, and Tourism.

Your Committee finds that the Hawaii Visitors Bureau has not been audited by any legislative agency for about five years. Your Committee believes that there is a general need for periodic legislative evaluations of major State contractors such as the Hawaii Visitors Bureau.

Your Committee has amended the resolution to reflect the Legislative Auditor as the proper auditing agency and to request that the Hawaii Visitors Bureau submit an updated report on progress made toward implementing the recommendations of the last audit conducted by the Auditor in 1987. Your Committee has also made some technical amendments that have no substantive effect.

Your Committee on Tourism and Recreation concurs with the intent and purpose of S.C.R. No. 26, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 26, S.D. 1.

Signed by all members of the Committee.

SCRep. 2299 Tourism and Recreation on S.R. No. 23

The purpose of this Resolution is to request the Legislative Reference Bureau to conduct an audit of the Hawaii Visitors Bureau.

Testimony in support of this measure was submitted by the Department of Business, Economic Development, and Tourism.

Your Committee finds that the Hawaii Visitors Bureau has not been audited by any legislative agency for about five years. Your Committee believes that there is a general need for periodic legislative evaluations of major State contractors such as the Hawaii Visitors Bureau.

Your Committee has amended the Resolution to reflect the Legislative Auditor as the proper auditing agency and to request that the Hawaii Visitors Bureau submit an updated report on progress made toward implementing the recommendations of the last audit conducted by the Auditor in 1987. Your Committee has also made some technical amendments that have no substantive effect.

Your Committee on Tourism and Recreation concurs with the intent and purpose of S.R. No. 23, as amended herein, and recommends that it be referred to the Committee on Legislative Management, in the form attached hereto as S.R. No. 23, S.D. 1.

Signed by all members of the Committee.

SCRep. 2300 Employment and Public Institutions on H.B. No. 3127

The purpose of this bill is to strengthen the Community-Based Economic Development (CBED) Program.

Specifically, the bill gives the Director of Business, Economic Development, and Tourism until June 30, 1993 to employ civil service exempt staff and transfer up to \$1,500,000 from the Hawaii Large Fishing Vessel Purchase, Construction, Renovation, Maintenance, and Repair Loan Revolving Fund into the Hawaii Community-Based Development Revolving Fund. The authority to transfer funds would be effective on July 1, 1992.

CBED was established in 1990 to facilitate economic development efforts on the community level through an Advisory Council appointed by the Governor to assess and make recommendations to the Department on proposed businesses and enterprises seeking financial assistance. Community response to the Program has been positive and clearly indicates that to be effective, the Council requires skilled, full-time staff, preferably appointed by the Director, to ensure that each employee possesses specific qualities and abilities needed to carry out the Program's stated purpose. In addition, the Program is severely underfunded in relation to current requests for assistance, whereas the Hawaii Large Fishing Vessel Purchase, Construction, Renovation, Maintenance, and Repair Loan Revolving Fund has considerable unencumbered resources that would be better utilized by CBED.

Your Committee finds that the Director requires the authority contemplated by this bill in order to ensure that the CBED Program will be able to meet the economic development needs of Hawaii's communities.

Your Committee has amended this bill by specifying that the Director may employ no more than three persons, clarifying that this authority extends only to the CBED Program, and deleting the time restriction for accomplishing this business. To repeal this provision on June 30, 1993 would prohibit the Director from filling a future vacancy. Your Committee has also reduced the amount the Director may transfer to \$1 million, and specified that the Director must complete this transaction by June 30, 1993.

Your Committee has also amended this bill by making several nonsubstantive technical changes for the purposes of style and clarity.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of H.B. No. 3127, H.D. 2, as amended herein, and recommends that it be referred to the Committee on Science, Technology and Economic Development, in the form attached hereto as H.B. No. 3127, H.D. 2, S.D. 1.

Signed by all members of the Committee.

SCRep. 2301 Judiciary on H.B. No. 2318

The purpose of this bill is to require the Governor to fill legislative vacancies within 60 calendar days following the first day of the vacancy. The bill also requires that the appointee, at the time of vacancy, be a member of the same political party as the person whom the appointee succeeds, or nonpartisan if they succeed a nonpartisan. The law currently requires that the appointee meet the requirement at the time of appointment, rather than at the time of the vacancy.

The bill was amended to retain the current requirement that the appointee meet the partisanship requirement at the time of appointment. Your Committee believes that the proposed change is too restrictive. The current law allows the Governor to choose from a larger pool of eligible and otherwise qualified individuals, since that pool will include individuals whose contributions to their communities has not included partisan political activity. Since the advent of open primary elections and for a variety of other reasons, the pool of eligible appointees may be quite small in some districts under the criteria in the House draft.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2318, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2318, S.D. 1.

Signed by all members of the Committee except Senator McMurdo.

SCRep. 2302 Judiciary on H.B. No. 2811

The purpose of this bill is to raise the jurisdictional limits of the small claims court to \$3,000. More specifically, the bill:

- (1) Raises the maximum amount claimed in small claims cases for the recovery of money from \$2,500 to \$3,000; and
- (2) Raises the value of the property at issue and amount claimed in cases for the return of leased or rented personal property, from \$1,500 to \$3,000, and from \$2,500 to \$3,000, respectively.

The Judiciary testified in support of the bill. The Hawaii State Bar Association requested that the jurisdictional amounts be increased to at least \$5,000.

Your Committee amended the bill to raise the limits to \$5,000. The small claims court provides an efficient means of resolving legal disputes without the formal evidence rules, motions practice and participation of attorneys. The current jurisdiction limits, however, exclude too many cases that should be resolved swiftly and economically. Your Committee finds that this bill, as amended, will enable citizens to utilize the small claims court to obtain swift and easy resolution of their claims up to \$5,000.

Your Committee also amended the bill to conform to Ramseyer format.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2811, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2811, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator McMurdo.

SCRep. 2303 Judiciary on H.B. No. 2323

The purpose of this bill is to change the congressional reapportionment base from registered voters to the total population counted in the last preceding United States Census and to make technical, stylistic amendments.

Your Committee included other amendments to Chapter 25, Hawaii Revised Statutes, relating to the operations and duties of the Reapportionment Commission and apportionment advisory councils. Specifically, the bill was amended to:

1. Authorize the Commission, in the event of a successful court challenge of a reapportionment plan, to continue in operation and assist the court in formulating a new plan;
2. Permit the Commission to be constituted three months later than is currently permitted. A delay gives the Lieutenant Governor's staff additional time to obtain U.S. census data, make adjustments to convert the data into the population base employed by the Commission, and complete other preliminary tasks before the Commission is constituted;

3. Include as one of the events that terminates the appointments of the Commission members, a general election held under a reapportionment plan of a court of competent jurisdiction;
4. Delete the requirement that the Commission redistrict based on "basic island units," in recognition of the overriding mandate of equality of population under our state and federal constitutions;
5. Require that the Commission reapportion in conformance with the state and federal constitutions;
6. Insert new deadlines, giving the Commission 100 days from its starting date to publish a preliminary plan, 150 days to file a final report with the Chief Elections Officer, who then has 14 days to publish the plan;
7. Require the Commission to submit a report within 30 days after the filing of the final plan. Furthermore, the reference to the apportionment advisory councils was deleted from section 25-8, Hawaii Revised Statutes, so that the councils will not be required to keep a written record or to submit a legislative report; and
8. Make technical changes for purposes of clarity and style.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2323, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2323, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Cobb.

SCRep. 2304 Judiciary on H.B. No. 2712

This bill is a housekeeping measure to amend section 571-14, Hawaii Revised Statutes, relating to the family court's jurisdiction over adults.

First, it clarifies that the family court has exclusive jurisdiction over cases set forth in section 709-903.5, Hawaii Revised Statutes, involving the offense of endangering the welfare of a minor in the first degree.

In 1986, the offense of endangering the welfare of a minor was reclassified into two offenses and placed in two separate statutes. The new statute, section 709-903.5, created the offense of endangering a minor in the first degree. However, the family court's jurisdiction statute was not amended to include that new statute. This bill makes that conforming amendment.

Second, the bill clarifies that the family court has exclusive jurisdiction over cases involving violations of domestic abuse orders, including temporary restraining orders, and not just protective orders.

Finally, the bill proposes to delete redundant language from section 517-14(6).

Your Committee noted, however, that the redundant language in section 517-14(6) was already deleted in 1989 by Act 61. Your Committee therefore dropped that proposed amendment and made other corrections to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2712, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2712, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Cobb.

SCRep. 2305 Judiciary on H.B. No. 2799

The purpose of this bill is to replace the Supreme Court law library's special fund with a revolving fund.

On the same day as this bill, your Committee heard H.B. 2714, H.D. 2, which proposed to add two circuit court judges and an intermediate court justice. Your Committee noted that one of the circuit court judgeships, the eighteenth division judgeship, was funded by the Legislature last year but was never statutorily established.

According to the Judiciary, because there is already funding for the eighteenth division, the Judicial Selection Commission has been interviewing potential candidates to fill the anticipated judgeship and will be able to provide a list of candidates to the Governor as soon as the position is established. If a candidate can be selected and confirmed prior to the adjournment of this session, the new judge could be sworn in and on the job as early as May or June of this year, thereby providing some immediate relief to the growing backlog of cases in the First Circuit.

Because the eighteenth judgeship has already been funded, your Committee sees no reason for any delay in establishing and filling that position. Therefore, your Committee gutted this bill to be used as a vehicle to expedite the establishment of that position.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2799, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2799, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Crozier, Matsuura and Koki.

SCRep. 2306 Employment and Public Institutions on H.B. No. 3122

The purpose of this bill is to authorize the Department of Public Safety to require inmates to make restitution for damage they caused to state property.

The amount of restitution will not exceed the cost of repairing or replacing the state property and would only be authorized after consideration by an adjustment committee. Restitution payments, if authorized, may be deducted from the inmate's prison account or prison earnings.

Your Committee finds that there is widespread precedent for allowing federal, state, and local jurisdictions to require restitution. Your Committee believes that this State should be afforded the same authority as other jurisdictions which have found restitution to be consistent with public corrections policies.

Your Committee has amended this bill by making a technical change that has no substantive effect.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of H.B. No. 3122, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3122, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2307 Judiciary on H.B. No. 2410

This bill provides that no hearing shall be required in guardianship termination proceedings unless deemed by the court to be in the interest of justice.

In support of the bill, a private attorney testified that the present statute unnecessarily increases attorney's fees and costs by requiring a court hearing in guardianship termination proceedings.

According to the attorney, if a child is injured and receives monies through a settlement or a court award, a guardian of the property must be appointed to execute the requisite documents and administer the funds. The monies are usually placed in structured settlements if the amount is for \$50,000 or more, or in accounts with financial institutions for amounts less than \$50,000. The guardianship can be terminated when the child attains the age of majority. At that time, the child may be in college, or the family may be relocated elsewhere. In these situations, it is impractical and costly for the child to attend a hearing. Also, those who need the funds wish to terminate the guardianship at minimal cost. The requirement of a hearing increases the cost of terminating the guardianship.

Your Committee amended the bill by deleting the added language because the phrase "in the interest of justice" may be creating a new legal standard that is inconsistent with current standards used by the courts.

Your Committee believes that the deletion of the words "after notice and hearing" sufficiently eliminates the requirement of a hearing. Your Committee wishes to emphasize that the deletion of that language should not be interpreted as precluding the court from conducting hearings. It is intended to make hearings in guardianship termination proceedings discretionary with the court, which your Committee believes is consistent with the purpose of the bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2410, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2410, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2308 Employment and Public Institutions on H.B. No. 2783

The purpose of this bill is to make permanent and expand the program of visitor industry practicum courses developed by the Tourism Training Council and successfully piloted in two Oahu high schools.

The Visitor Industry Practicum Courses Pilot Project was established pursuant to Act 335, Session Laws of Hawaii 1990 at Farrington and Waipahu High Schools, and funded by the Legislature for fiscal years 1990-1991 and 1991-1992. The Project has been successful and will tangibly benefit Hawaii's critical visitor industry. This bill appropriates \$33,000 to the Department of Education for fiscal year 1992-1993 to enable continued provision of the coursework at Farrington and Waipahu High Schools, and \$50,000 to enable the Tourism Training Council to develop new pilot programs at one high school in each of Hawaii, Kauai, and Maui Counties.

Your Committee finds that the Pilot Project is an effective means of addressing Hawaii's critical labor shortage in the visitor industry that should be made permanent where currently instituted and expanded throughout the State.

However, your Committee finds that the scope of this bill is in one sense too narrow and in another too broad, and that the bill requires many nonsubstantive technical changes to appropriately clarify and convey its intent and purpose. Therefore, your Committee has generally rewritten this measure and made the following substantive amendments:

- (1) Provided \$83,000 to allow expansion of the Project to one high school in each of the other five school districts that do not already offer this curriculum;
- (2) Deleted the specific criteria for selecting the five high schools for expansion and authorized the Department of Labor and Industrial Relations to make such determinations; and

- (3) Provided that funding to continue the curriculum at Farrington and Waipahu High Schools is contingent on the Department of Education initiating appropriate actions to ensure that the subject positions are made permanent and included in the Governor's budget request for fiscal biennium 1993-1995.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of H.B. No. 2783, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2783, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2309 Employment and Public Institutions on H.B. No. 3121

The purpose of this bill is to strengthen and streamline the decision-making procedures of the Criminal Injuries Compensation Commission.

Specifically, the bill:

- (1) Provides that the signatures of the other two members of the Commission are necessary to validate orders in the absence of the Chairperson;
- (2) Permits the Commission to delegate to the Administrator authority to sign any order approved by the Commission; and
- (3) Requires that requests for reconsideration of adverse orders or decisions must be received by the Commission within thirty days after service of a certified copy of the order or decision.

Your Committee finds that the provisions of this bill require revision and clarification in order to achieve the purpose. Therefore, your Committee has amended this bill as follows:

- (1) Clarified that any member of the Commission, may sign an order for a subpoena or remuneration for mileage or witness fees in the absence of the Chairperson. Your Committee notes that the Committee Report accompanying this bill from the House of Representatives indicates this intent, although the language provided on page 3, lines 6 and 7, explicitly requires the opposite;
- (2) Provided that the Commission may delegate to the Administrator the authority to adjudicate any case for which there is sufficient documentation and the applicant has waived the right to a hearing, and deleted the material authorizing the Administrator to sign any order approved by the Commission if requested to do so. Your Committee finds that the current procedure by which orders for payment of awards are made pursuant to Part V of Chapter 351, Hawaii Revised Statutes, although not specifically articulated, are sufficient to carry out this business efficiently and expeditiously. This amendment relates to paragraph (1) above and is intended to clarify the distinction between orders for subpoenas, mileage, and witness remunerations and orders for payment of awards to applicants. As to authorizing the Administrator to adjudicate (determine eligibility for compensation and the amount and terms of the award), your Committee finds that the hearing requirement is onerous for some applicants and that many cases can be appropriately decided on the basis of available records and documents. Your Committee also notes that there is precedent in other states for similar procedures. To ensure proper adjudication, your Committee has provided that any case decided by the Administrator shall be subject to the approval of at least two Commission members;
- (3) Deleted the requirement in Section 351-11 that one Commission member must be an attorney; and
- (4) Made numerous nonsubstantive technical changes for the purposes of clarity and style.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of H.B. No. 3121, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3121, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2310 Employment and Public Institutions on H.B. No. 3123

The purpose of this bill is to provide that up to forty percent of the wages earned by all inmates convicted of violent crimes shall be deposited to the credit of the Criminal Injuries Compensation Fund.

Currently, up to forty percent of an inmate's earnings from the Correctional Industries Program may be reimbursed to the Fund but only for payments made by the Criminal Injuries Compensation Commission to victims of the inmate's violent crime. This bill provides that payments will automatically be made from the earnings of each inmate incarcerated for violent crimes, regardless of whether a claim has been filed for compensation.

The bill also gives the Fund statutory authority to receive these moneys.

Your Committee finds that there is always a victim of a violent crime, whether it be a person or society as a whole, and that each inmate incarcerated for a violent crime should contribute a portion of his prison earnings to compensate crime victims in general. Your Committee also finds that this bill will enable the Department of Public Safety to qualify for certification under the federal Prison Industries Enhancement Program, without which neither the Department nor its joint venture partners may engage in business in which goods and services are sold in interstate commerce or to the federal government. One requirement of the Enhancement Program is the automatic payment provision.

Your Committee has amended this bill by providing that the amounts paid shall be not less than five percent nor more than twenty percent of the inmate's earnings, and that payments shall be made on a quarterly basis, with the amount paid to the Fund reported each year to the Legislature and the Criminal Injuries Compensation Commission. Your Committee has also made several nonsubstantive technical changes for the purposes of clarity and style.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of H.B. No. 3123, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3123, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2311 Health and Human Services on H.B. No. 2680

The purpose of this bill is to authorize the Department of Budget and Finance to issue special purpose revenue bonds in an amount not to exceed \$20,000,000 to assist the Rehabilitation Hospital of the Pacific.

Your Committee finds that the Rehabilitation Hospital of the Pacific is the only comprehensive medical rehabilitation hospital in the State. Your Committee further finds that issuance of these bonds will save the hospital approximately \$4.3 million in interest expense which savings will be passed on directly to the patients.

Your Committee on Health and Human Services is in accord with the intent and purpose of H.B. No. 2680 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Koki.

SCRep. 2312 Health and Human Services on H.B. No. 3076

The purpose of this bill is to make an emergency appropriation of \$15,000,000 for operating expenses of the community hospitals for the current fiscal year ending June 30, 1992.

Your Committee received testimony from the Department of Health indicating that the spiraling costs of the healthcare industry has left them with a shortfall in general fund revenues which are needed to continue to operate the hospitals during this present fiscal year.

However, your Committee is extremely concerned that this request is largely the result of continuing administrative and fiscal mismanagement for which the hospitals have been criticized for many years. Your Committee further finds that the Auditor's Office has been critical of the financial administration of the hospitals in reports submitted in 1985, 1988, 1989, and 1992. Your Committee notes that one of the consistent criticisms of the hospitals is a systemwide lack of commitment to making timely collection of revenues and outstanding debts.

Although your Committee is recommending passage of this bill, the continuing deterioration of the financial condition of the community hospitals must not continue. Your Committee strongly advises that it is incumbent upon the Department of Health to implement the recommendations of the Auditor's reports, especially related to aggressive collection of revenues and development of a plan to maximize financial self-sufficiency. Your Committee further notes that given present budgetary constraints and an anticipated future shortfall in general revenues of the State, the Legislature will not be able to make additional bailouts.

Your Committee has amended this bill by requiring that the Department of Health make a status report on the financial condition of the community hospitals and implementation of the recommendations of the Auditor.

Your Committee on Health and Human Services is in accord with the intent and purpose of H.B. No. 3076, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3076, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Koki.

SCRep. 2313 Consumer Protection and Public Regulation on H.B. No. 2355

The purpose of this bill is to amend Chapter 466, Hawaii Revised Statutes (HRS), by inserting language that would limit the circumstances under which a third party may bring a tort action against a public accountant.

Testimony in support of the bill was submitted to your Committee by the CPA Society of Hawaii and a number of certified public accountants, while testimony in opposition was offered by the Hawaii Academy of Plaintiffs' Attorneys and the Hawaii Bankers Association.

The State Board of Public Accountancy expressed no objection to the substance of the bill, but observed that its provisions would be more appropriately placed in Chapter 663, HRS, rather than in Chapter 466.

Your Committee finds that it is unfair to hold a public accountant liable to a limitless class of potential plaintiffs, for limitless amounts, and for an unlimited time, as is effectively the case under existing law. Accordingly, your Committee believes that certain safeguards must be established to protect the rights of these professionals.

Your Committee has amended the bill in accordance with the recommendation of the Board of Public Accountancy and placed the new section in Chapter 663. Additionally, your Committee has clarified the circumstances under which a

public accountant may be held liable in tort and provided that nothing in the new section shall limit the state or federal government from bringing a civil action against a public accountant.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of H.B. No. 2355, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2355, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 2314 Judiciary on H.B. No. 2490

The purpose of this bill is to add to the methods for serving process in garnishment proceedings under Chapters 652 and 653, Hawaii Revised Statutes.

Chapter 653, which pertains to garnishment of government beneficiaries, presently authorizes service on a government garnishee as follows: (1) if the garnishee lives or has an office in the district where process is issued, service is to be made personally or left at the garnishee's usual place of abode; (2) if, however, the garnishee lives outside the district where process is issued, service may also be made by registered mail. This bill authorizes service by certified mail in addition to service by registered mail. Furthermore, this bill authorizes the same methods of service as in garnishment proceedings under Chapter 652.

Your Committee amended the bill so that there is parallel construction and consistency between the two chapters. In addition, the bill was amended by:

- (1) Clarifying that service by registered or certified mail need not be made by a specially authorized process server;
- (2) Providing that a serving officer's certificate of service or, if service is by mail, a copy of the return receipt is prima facie proof of service;
- (3) Providing that service is effective from the time when the copy is handed to or left in the office of the garnishee, or reaches the garnishee or the garnishee's office by mail; and
- (4) Making technical amendments for purposes of consistency, clarity and style.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2490, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2490, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Holt.

SCRep. 2315 Judiciary on H.B. No. 2801

The purpose of this bill is to amend various provisions of the Hawaii Revised Statutes to correct errors, update references, clarify language or delete obsolete or unnecessary provisions. All amendments are technical and contain no substantive changes to the law.

The reasons for amending the provisions are as follows:

Sections 1, 2 and 7 delete cross-references to repealed statutes and replace them with cross-references to new provisions on the same subjects.

Section 3 inserts a semi-colon in the title of section 134-51, Hawaii Revised Statutes, relating to "deadly weapons."

Section 4 amends the title and subsection (a) of section 174C-6, Hawaii Revised Statutes, so that the commission "for" water resource management is properly referred to as the commission "on" water resource management.

Section 5 amends section 398-3(d), Hawaii Revised Statutes, which incorrectly makes a reference to unpaid leave "under this subsection." Because unpaid leave in that subsection refers to Chapter 398 as opposed to a particular subsection, that reference is corrected to refer to unpaid leave "under this chapter."

Section 6 amends section 408-15, Hawaii Revised Statutes, by deleting unnecessary language from paragraph (3) of subsection (l) and replacing a cross-reference to a repealed statute with a cross-reference to a new provision on the same subject.

Section 8 amends a reference to the "department of labor" in section 437B-23(b), Hawaii Revised Statutes, so that it correctly refers to the department as the "the department of labor and industrial relations."

Section 9 inserts the particle "a" to correct a grammatical error in section 460J-16(c), Hawaii Revised Statutes.

Section 10 amends section 485-14.5(b), Hawaii Revised Statutes, to clarify that the exemption provided under "the" section refers to "this" section, i.e., section 485-14.5.

Section 11 corrects section 502-31, Hawaii Revised Statutes, which makes an erroneous reference in the fourth paragraph to the application of "this paragraph." That reference is corrected to read "this section" to clarify the applicability of that section and not just the particular paragraph.

Section 12 corrects erroneous amendments made last year to subsections (b) and (c) of section 584-9, Hawaii Revised Statutes. Act 224, 1991 Session Laws of Hawaii, inadvertently set forth the incorrect version of subsections (b) and (c) of section 584-9. The version was obsolete and reflected the subsections in the form in which they existed before their amendment by Acts 235 and 224, 1986 Session Laws of Hawaii. The subsections were therefore amended to read in accordance with the incorrect, earlier version. Section 584-9(b) and (c) are amended to add the language from the two 1986 amendments that were inadvertently deleted and to make other technical corrections.

Section 13 amends prefatory language to section 19 of Act 321, 1991 Session Laws of Hawaii, to clarify that section 19 amended, rather than repealed, section 327D-24.

The Office of the Legislative Reference Bureau submitted testimony in support of the bill. Your Committee also received testimony from the Department of Defense, which had no objections to the amendments proposed in Sections 1 and 2 of this bill.

The Hawaii County Office of the Corporation Counsel requested that Section 12 of the bill be amended so that section 584-9(b), Hawaii Revised Statutes, includes a reference to the "natural mother" instead of a "known parent." It testified that the word "known" is confusing because it is not defined in Chapter 584 and that the inclusion of the term was probably meant to refer to the natural mother. However, this revision bill makes only technical amendments and is not the proper vehicle to address substantive changes.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2801, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2801, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt and Tungpalan.

SCRep. 2316 Judiciary on H.B. No. 3179

The purpose of this bill is to:

(1) Repeal Act 302 and to provide that the unexpended balance of the appropriation made in Act 302 would lapse into the general fund;

(2) Appropriate \$100,000 for the costs related to the acquisition of an electronic voting system, punchcard and marksense voting systems.

In favor of the bill, the Lieutenant Governor's office and county clerks testified that the Temporary Advisory Committee on Electronic Voting Systems (TAC) were unable to find a totally electronic voting system that had an established track record and met all state specifications at an affordable price.

Upon inquiry, the Lieutenant Governor's office was unable to provide details of how the \$100,000 would be expended. Your Committee therefore deleted the amount of \$100,000 and inserted a blank amount.

Your Committee also added a waiver provision, which exempts the selection and negotiation process from the provisions of Chapter 103, Hawaii Revised Statutes, to give TAC the flexibility to negotiate for the most suitable voting system.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3179, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3179, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Holt and Tungpalan.

SCRep. 2317 Employment and Public Institutions on H.B. No. 602

The purpose of this bill is to help the Judiciary achieve parity with the State in terms of Super Class (SC) positions to which it is entitled.

Currently, the Executive Branch of government (the State), pursuant to Section 77-13(d), Hawaii Revised Statutes, may employ sixteen SC's, not counting physicians and psychiatrists for whom there is no limit. The Judiciary, on the other hand, is allocated only one SC position and is not entitled to use this classification for medical professionals. This bill would allow the Judiciary four SC positions and unlimited physicians or psychiatrists classified at the SC level.

Your Committee finds that the Judiciary, being a separate but equal branch of government, should have personnel prerogatives more closely in line with the Executive Branch. However, in relation to the number of employees in each, your Committee finds that two regular SC positions, as well as unlimited authority to employ physicians and psychiatrists in the SC ranges, will suffice to achieve parity. Your Committee has amended this bill accordingly.

Your Committee has also made some technical changes that have no substantive effect.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of H.B. No. 602, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 602, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2318 Employment and Public Institutions on H.B. No. 2571

The purpose of this bill is to increase the thresholds that determine when formal and informal bids must be made for expenditures of public moneys.

Specifically, the bill makes the following amendments to Section 103-22, Hawaii Revised Statutes:

- (1) Raises the threshold for sealed, formal bids from \$8,000 to \$35,000;
- (2) Raises the threshold for once-advertised informal bids from the \$4,000.01 - \$14,999.99 range to \$15,000.01 - \$34,999.99;
- (3) Exempts expenditures for emergency replacement of medical diagnostic and therapeutic equipment for public hospitals from the formal bid requirement;
- (4) Exempts expenditures to ensure continuous medical service from the formal bid requirement;
- (5) Exempts expenditures in the \$15,000.01 to \$34,999.99 range for public works, repair of publicly owned heavy equipment, automotive equipment, sewage treatment plants, and utilities, and emergency roadway work from the informal bid requirement; and
- (6) Provides that where an informal bid is required for medical diagnostic or therapeutic equipment, the Department of Health need not adjust specifications to qualify more than one vendor or accept a low bid that is inconsistent with the needs of the Division of Community Hospitals.

This key statute has been amended and repealed several times in the past few years. This bill reflects levels and exemptions that your Committee finds to be responsive to current needs of all concerned parties.

Your Committee has amended this bill by making technical changes that have no substantive effect.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of H.B. No. 2571, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2571, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2319 Employment and Public Institutions on H.B. No. 2755

The purpose of this bill is to clarify and strengthen the provisions relating to group life benefit and life insurance programs for public employees.

Currently, the Public Employees' Health Fund provides group life insurance or life benefits in the absence of a parallel plan offered by the exclusive representative of a public sector bargaining unit. If the exclusive representative offers a plan, the Board of Trustees pays the premiums for employees enrolled therein. An employee covered by a union plan may also purchase coverage through the Fund as long as the Board makes only one payment per month for the employee.

This bill would include retirees under the programs, allow an exclusive representative having a life benefit or insurance program to make enrollment in the program mandatory for its members by filing a request with the Fund, and, given such filing, bar member employees who refuse coverage under the union program from coverage under the Fund.

Your Committee finds that the unions are likely to provide higher benefits than the State and that this bill will ensure that every public employee has appropriate coverage.

Your Committee, however, is concerned about including retirees under the group life programs; the cost may be prohibitive, and there is insufficient information to the contrary. Therefore, your Committee has deleted retirees from this bill.

In addition, your Committee finds that an employee who is enrolled in a union program should also be allowed coverage through the Fund on a self-financing basis and has amended the bill accordingly.

Your Committee has also made some nonsubstantive technical changes for the purposes of clarity and style.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of H.B. No. 2755, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2755, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2320 Employment and Public Institutions on H.B. No. 2828

The purpose of this bill is to convert to civil service certain temporary positions and incumbents in the Department of Education.

The Department was authorized to convert 156 full-time equivalent temporary School Security Attendant positions and fourteen temporary positions established to develop and implement its Financial Management System. The Security Attendant positions were not converted because the incumbents would have had to compete with other interested

applicants pursuant to state personnel rules. The Financial Management System employees were not converted because of time constraints.

Your Committee finds that the incumbents should be entitled to permanent civil service status if they have performed their work satisfactorily for six months, as provided by this measure.

Your Committee has amended this bill by making several nonsubstantive technical changes for the purposes of clarity and style.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of H.B. No. 2828, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2828, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2321 Employment and Public Institutions on H.B. No. 3111

The purpose of this bill is to allow the Department of Public Safety to receive gifts of money or property to be used to carry out the purposes of Chapter 353C, Hawaii Revised Statutes.

Specifically, the bill provides that private gifts of money and money from the federal government shall be deposited in a special fund (not established in the bill) and expended for any purpose relating to the Department but in accordance with any terms or conditions specified by the donor. Gifts of property may be converted to cash for deposit in the special fund; the cash may then be used for the purposes of the Chapter or for the storage, handling, and distribution of the property. Expenditures in connection with storage, handling, and distribution of converted property must be approved by the Governor. Provision is made for recordkeeping of essential information relating to gifts and expenditures from the special fund.

Your Committee notes that the intent of this bill is to transfer to the Department of Public Safety the authority to receive private gifts that previously was vested with the Department of Human Services relating to corrections. However, the language of this bill would enable the Department to use gifted money and property for any of the Department's purposes, not just corrections, subject to the donor's terms or conditions.

Your Committee finds that the intent if not the language of this bill is consistent with the intent of the Legislature to transfer certain powers and prerogatives previously enjoyed by other state agencies to the Department of Public Safety.

However, your Committee is concerned about several provisions that appear to be contradictory or incorrect. Therefore, your Committee has generally rewritten this measure, with the following substantive amendments:

- (1) Clarified that the bill is limited to gifts for corrections purposes under Chapter 353;
- (2) Clarified that gifts do not include federal appropriations. Public moneys for corrections are encumbered for specific purposes, whether appropriated by the Legislature or Congress, or provided by a funding arm of the federal government. Your Committee does not believe that those kinds of moneys should be considered discretionary;
- (3) Provided that gifted money shall be deposited in a separate account in the State Treasury rather than a special fund. Your Committee is mindful of the Auditor's cautionary stance regarding establishment of new special or revolving funds, and finds that it is more appropriate to include gifted moneys as part of the general wealth of the State. Your Committee also notes that the bill as received does not establish a special fund and therefore provides no resting place for money gifted to the Department or derived from liquidating gifted property;
- (4) Provided that money derived from selling property may be used for storage, handling, and distribution of other properties held by the Department. As received by your Committee, this bill authorizes money derived from a sale to be applied to the property sold, which is no longer in the possession of the Department;
- (5) Deleted the requirement relating to gubernatorial approval. Your Committee finds that discretion relating to use of unencumbered gifted money or property is customarily placed with the agency director and can see no reason for it to be otherwise for the Department of Public Safety. Accordingly, your Committee has provided that all expenditures relating to gifts shall be subject to the approval of the Director of Public Safety; and
- (6) Provided for greater accountability in recordkeeping by requiring more details and annual reports to the Legislature and the Governor, and to the general public free of charge.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of H.B. No. 3111, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3111, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2322 Employment and Public Institutions on H.B. No. 3115

The purpose of this bill is to appropriate \$807,832.17 to be expended by the Department of Public Safety in fiscal year 1992-1993 to compensate crime victims and their service providers pursuant to awards made by the Criminal Injuries Compensation Commission.

The money is slated for deposit into the Criminal Injuries Compensation Fund.

Your Committee finds that this appropriation is required to carry out the purposes of Chapter 351, Hawaii Revised Statutes.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of H.B. No. 3115, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2323 Employment and Public Institutions on H.B. No. 3603

The purpose of this bill is to specify that of the three non-employee members of the Board of Trustees of the Employee's Retirement System, one shall be a public service retiree and the other shall be at-large. The rest of the membership would remain as currently constituted.

Your Committee finds that the investment portfolio and membership of the Employees' Retirement System has grown significantly but that the number of trustees on the Board has not changed for many years. Subcommittees on the Board should be formed to focus on investment strategies and investment performance, retirement benefits, and actuarial assumptions. The subcommittees would then report their findings and recommendations to the entire Board for appropriate action.

To achieve these objectives, your Committee has amended this bill by increasing the membership of the Board from seven to eleven, with four trustees who are not public employees, five employee trustees, and one trustee who is a retirant of the System. These trustees will serve for five years. The Director of Finance continues as an ex officio member of the Board. The reorganization will begin on January 2, 1996.

Your Committee has also provided for a quorum of six members to do business, required the ERS to report to the 1994 Legislature on how to make the transition smooth and efficient, and made the bill effective January 1, 1993.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of H.B. No. 3603, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3603, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2324 Employment and Public Institutions on H.B. No. 3698

The purpose of this bill is to include nurses in the permanent job-sharing program established pursuant to Act 244, Session Laws of Hawaii 1989.

The bill also deletes the Auditor's 1993 status report requirement.

Job-sharing is one means of addressing the various employment needs of workers in the public sector. Act 244 inadvertently omitted bargaining unit (9).

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of H.B. No. 3698 and recommends that it pass Second Reading and be referred to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 2325 Employment and Public Institutions on H.B. No. 3702

The purpose of this bill is to increase options for receipt of benefits under the Employees' Retirement System on account of a member's death while in service.

Specifically, the bill enables the surviving spouse or dependent children of a deceased contributory member to receive an Option 2 or 3 monthly pension or a lump sum if the beneficiary designation is null and void or the member failed to name a beneficiary. Under current law, the only benefit payable is a lump sum comprised of the member's accumulated contributions and a percentage of the member's annual salary which is paid to the deceased member's estate and possibly subject to probate. This bill allows the surviving spouse to select Option 2 if the member was eligible to retire, Option 3 if the member had ten years of service, or the ability to avoid probate if a lump sum payment is chosen.

The bill also allows surviving spouses and dependent children to qualify for Health Fund benefits regardless of whether the deceased member was in the contributory or noncontributory plans. It also increases the death benefit for noncontributory members who die from work-related accidents from twenty to thirty percent of their average final compensation.

Finally, the bill allows a noncontributory retiree to change his or her option C beneficiary after retirement, thus achieving parity in both plans.

Your Committee finds that this bill is needed to ensure that in service death benefits are appropriately provided under the Employees' Retirement System.

Your Committee has amended this bill by making nonsubstantive technical changes for the purposes of clarity and style.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of H.B. No. 3702, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3702, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2326 Employment and Public Institutions on H.B. No. 3052

The purpose of this bill is to modernize the definition of "qualified elevator inspector."

Under current law, a qualified elevator inspector must either have five years experience as an elevator mechanic or meet requirements established by the Department of Labor and Industrial Relations. This bill deletes the experience provision and requires that, along with meeting the Department's requirements, the individual must also meet the qualifications of the American Society of Mechanical Engineers and the Standards for the Qualification of Elevator Inspectors of the American National Standards Institute.

Your Committee finds that the new criteria are appropriate to efficiently qualify elevator inspectors and protect the general public.

Your Committee has amended this bill by making nonsubstantive technical changes for the purposes of clarity and conformance with recommended drafting style.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of H.B. No. 3052, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3052, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2327 Health and Human Services on H.B. No. 2584

The purpose of this bill is allow unwed mothers the opportunity to complete an affidavit of paternity and to include the social security numbers of both parents on such affidavit.

Your Committee finds that many unwed mothers are often single parents who should receive financial support from the non-custodial father. Your Committee further finds that including the social security number on the affidavit will assist the Child Support Enforcement Agency in finding non-custodial parents who have financial obligations to their children. Testimony in support of this measure was received from the Attorney General's office and the Single Parent Advocacy Network.

Your Committee has amended this bill to include language suggested by the Attorney General which provides that parents shall be informed of the disclosure of their social security number and the statutory authority providing for such disclosure, and to make technical revisions.

Your Committee on Health and Human Services is in accord with the intent and purpose of H.B. No. 2584, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2584, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 2328 Health and Human Services on H.B. No. 3799

The purpose of this bill is to establish a statewide network of primary health care centers.

Your Committee finds that community-based primary health care clinics provide medical care and health promotion services to persons who do not have access to private health care providers. However, the Department of Health has identified various medically underserved areas within the State including parts of rural Oahu and many of the Neighbor Islands. Your Committee further finds that the Department of Health should assist in the development of community-based health primary health clinics in these medically underserved areas to assure equal access to health care for all Hawaii residents. Testimony in support of this measure was received by the Department of Health, the Hawaii Medical Association, and the Hawaii State primary care Association.

Your Committee has amended this bill by:

- (1) Deleting unnecessary preamble language;
- (2) Changing the word "network" to "system";
- (3) Clarifying that standard for participation in the system shall be the same as for federally funded 329/330 community health centers;
- (4) Amending section 321-62 to allow the Department of Health to provide clinical dental health services;
- (5) Providing for a repeal date of July 1, 1995 to give three years to establish this system; and
- (6) Making technical amendments for the purposes of clarity and style which do not affect the substance of the bill.

Your Committee on Health and Human Services is in accord with the intent and purpose of H.B. No. 3799, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3799, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2329 Health and Human Services on H.B. No. 2380

The purpose of this bill is to provide moneys for reimbursements to operators of adult residential care homes for direct daily resident care services.

Your Committee finds that the operators have not received any increase in the level of care payment differentials since 1989. A 1989 Auditor's report indicates that the payments do not correlate with the amount of care time required for the residents, considering their impairments.

Your Committee has amended this bill by appropriating the sum of one dollar.

Your Committee on Health and Human Services is in accord with the intent and purpose of H.B. No. 2380, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2380, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2330 Health and Human Services on H.B. No. 2917

The purpose of this bill is to establish a program of all-inclusive care for the elderly (PACE) for a demonstration period of five years.

Your Committee finds that this program would ensure that comprehensive and cost-effective long-term care would be available to the frail elderly who are at-risk of institutionalization. Your Committee further finds that a five-year demonstration should be a sufficient period in which to establish the program and is hopeful that PACE will become a permanent part of the developing network of long-term care programs being initiated by the State.

Your Committee has amended this bill by adding a new section which indicates the State's intent of making PACE a permanent program upon the expiration of the demonstration period, and providing that funds shall be returned to their sources in the event that PACE is not continued. Amendments were made for clarity and style.

Your Committee on Health and Human Services is in accord with the intent and purpose of H.B. No. 2917, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2917, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2331 Health and Human Services on H.B. No. 3090

The purpose of this bill is to extend the operation of the Governor's Blue Ribbon Panel on Health Care and provide an appropriation for such extension.

Your Committee finds that the Blue Ribbon Panel has been tasked with looking at the various elements which comprise the health care system in Hawaii, and is currently synthesizing the information it has collected. Testimony received from the chairperson of the Panel indicates that additional time is necessary for the Panel to complete its recommendations and submit a report for public review and comment. Based upon budget information submitted by the Panel, your Committee has determined that sufficient funds have already been provided for the Panel to complete its work and an additional appropriation is not necessary.

Your Committee has amended this bill by:

- (1) Including mental health as a component to be included in the panel's examinations;
- (2) Changing the repeal date to December 31, 1992;
- (3) Deleting the appropriation sections; and
- (4) Changing the effective date of the bill to upon approval.

Your Committee on Health and Human Services is in accord with the intent and purpose of H.B. No. 3090, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3090, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2332 Health and Human Services on H.B. No. 3139

The purpose of this bill, as received, is to clarify federal and state policy that financial assistance applicants with assets in excess of \$1,000 are ineligible for such assistance.

Your Committee received testimony which indicates that the question of eligibility determination is a matter pending before the courts, and thus the Committee is reluctant to second-guess the Judiciary on this issue at this time. Your Committee finds that it is more appropriate to address the administration's proposal to freeze the standard of need at the 1991 level. Your Committee opposes this freeze because the present standard of need is inadequate.

Your Committee, therefore, has amended this bill by deleting its substance and replacing it with the provisions of S.B. 2887. S.B. 2887 clarifies the methodology for calculating the standard of need to determine the amount of assistance to be provided and provides that changes to the standard shall become effective on July 1 of each year subsequent to any changes in the federal poverty level.

Your Committee on Health and Human Services is in accord with the intent and purpose of H.B. No. 3139, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3139, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2333 Health and Human Services on H.B. No. 3332

The purpose of this bill is to repeal Chapter 321E, Hawaii Revised Statutes, pertaining to the Dispersal Review Council and to transfer all Council personnel, equipment, and documents to the State Health Planning Development Agency (SHPDA).

Testimony in support of the bill was received from the Department of Health and SHPDA.

Your Committee finds that although the establishment of the Council was intended to ensure that group living facilities for the developmentally disabled, elderly, handicapped, mentally ill, or totally disabled were proportionally dispersed throughout the State, a recent circuit court ruling held that the Council's regulatory authority was in conflict with provisions of the Federal Fair Housing Act.

Therefore, your Committee believes that the Council should be dissolved and the personnel, equipment, and documents be transferred to SHPDA.

Your Committee on Health and Human Services is in accord with the intent and purpose of H.B. No. 3332 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2334 Health and Human Services on H.B. No. 3857

The purpose of this bill is to extend the Family Center demonstration project for an additional year and add a training and technical assistance component.

Your Committee finds that the Family Centers provide a unique and innovative approach to address the multiple needs of families within their communities. Your Committee further finds that the addition of a training and technical assistance component will strengthen the Centers through the development of staff and outreach programs within the community.

Your Committee received testimony from the Chairperson of the Governor's Family Center Advisory Council requesting an amendment to reinforce the concept of community strengthening and development. Therefore, your Committee has amended the bill to reflect this request.

Your Committee on Health and Human Services is in accord with the intent and purpose of H.B. No. 3857, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3857, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2335 Health and Human Services on H.B. No. 3851

The purpose of this bill is to provide assistance to foster parents by:

- (1) Affording these individuals with the rights, responsibilities, and expectations of state agency volunteers;
- (2) Prohibiting insurance companies from considering a policy holder's foster child differently from the policy holder's natural or adopted child for purposes of determining premium rates on homeowners or renters insurance; and
- (3) Appropriating moneys to:
 - (A) Establish a demonstration project for the provision of respite care by licensed, specially trained foster parents on Oahu; and
 - (B) Provide child care for foster parents who attend foster parent training classes and foster parent meetings.

Your Committee received testimony in support of the bill from the Department of Human Services, the Child Welfare Services State Advisory Council, and foster parents.

Your Committee finds that the bill would assist in alleviating some of the many reservations otherwise qualified and motivated individuals may have when deciding whether to become foster parents. It is expected that the benefits provided foster parents by this bill will not only increase their number, but improve their performance as well.

Your Committee on Health and Human Services is in accord with the intent and purpose of H.B. No. 3851, H.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2336 Tourism and Recreation on H.B. No. 3926

The purpose of this bill is to appropriate the nominal sum of \$1 for tourism marketing for Hawaii.

Upon further consideration, your Committee has amended the bill by deleting the original provisions and inserting new provisions that would appropriate \$50,000 for the relocation of the Pacific Asia Travel Association headquarters to Hawaii.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of H.B. No. 3926, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3926, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2337 Education on H.B. No. 2313

The purpose of this bill, as received, is to expand the times in which the Department of Education may conduct driver education classes in public high schools.

The purpose of this bill, as amended, is allow the Department of Education to establish a traffic safety education program to be conducted at each public school for students from kindergarten through grade 12, as well as to expand the times in which the Department may conduct driver education classes.

Your Committee believes that a traffic safety education program would serve to make students aware of the precautions and safety considerations involved in driving a vehicle or a bicycle, or in being a pedestrian, or in riding a school bus, or in having alcohol free and drug free school functions. This would help to cut lives and avoid crippling injuries.

Your Committee has amended this bill accordingly to provide for enabling legislation to accomplish the foregoing.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 2313, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2313, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2338 Education on H.B. No. 2696

The purpose of this bill is to propose an amendment to the state constitution to allow the issuance of special purpose revenue bonds to assist private not-for-profit institutions of higher education.

Your Committee finds that many entities such as manufacturing and industrial enterprises, utilities serving the general public, and non-profit health care facilities are authorized to request the issuance of special purpose revenue bonds to assist with construction and improvement of their facilities. Your Committee further finds that the construction of student housing facilities at private not-for-profit institutions of higher education can have a significant impact on the costs of higher education at these institutions, which in turn increases the costs of programs offered through these institutions. Testimony received by your Committee indicates that the inclusion of these type of institutions in the constitutional provision authorizing the issuance of special purpose revenue bonds will not imply a financial obligation on behalf of the State and will expand the quality of higher education programs within the State.

Upon the advice of the Attorney General, your Committee has amended this bill to indicate that this constitutional provision will apply only to non-sectarian institutions.

Your Committee has also amended this bill by adding language to the purpose section to indicate that these student housing facilities serve a public purpose as required by the Constitution, and that the legislature intends that religious affiliated universities and colleges shall also qualify for these bonds provided that they meet the same non-sectarian standards and are religion-neutral in the operation of their student housing facilities.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 2696, H.D. 3, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2696, H.D. 3, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 2339 Education on H.B. No. 2843

The purpose of this bill is to clarify the scope of services to be provided under the hearing and vision programs offered in the public schools.

Your Committee finds that currently the Department of Health, in cooperation with Department of Education personnel, provides screening for hearing and vision deficiencies only when it is deemed advisable. Your Committee further finds that a comprehensive and systematic program for early detection, identification, and follow-up is needed to prevent educational and behavioral problems and ensure that children with hearing and vision deficiencies receive treatment in a timely manner.

Your Committee has amended this bill to provide that consultation regarding treatment and rehabilitation and education regarding conservation of hearing and vision be provided within available resources. Your Committee has reworded this bill for precision, diction, and form.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 2843, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2843, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2340 Education on H.B. No. 2861

The purpose of this bill is to authorize the United Student Aid Funds, Inc. to organize a subsidiary corporation known as the Secondary Market Services Corp.--Hawaii to carry out the purposes of section 309-1.5, Hawaii Revised Statutes; to conform the chapter to current federal law; and to clarify that the loan obligations are not an obligation of the State.

Section 309-1.5, HRS, relates to student loan funds. It creates a secondary market for the purchase of student loans from local financial institutions as authorized by federal law for the purpose of replenishing money to the local institutions to make new students loans. The sole purchaser of the loan notes is to be an affiliate of United Student Aid Funds, Inc. Therefore, this bill is to clarify that the affiliate is known as the Secondary Market Services Corporation.

Your Committee has amended this bill to delete the purpose section because the bill is self-explanatory and because the purpose section assumed that the bill was to create a new function for United Student Aid Funds, that of purchasing student loan notes, when in fact the bill does not authorize anything different other than creating a subsidiary corporation for the existing functions. Your Committee has also made technical changes which do not affect the substance.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 2861, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2861, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2341 Education on H.B. No. 3063

The purpose of this bill is to extend the repeal date for the Teacher Incentive Program at the University of Hawaii from June 30, 1992, to June 30, 1999.

Testimony in support of the bill was received from the University of Hawaii, the Department of Education, and the Hawaii State Teachers Association.

The Teacher Incentive Program grants tuition waivers to University of Hawaii students who agree to pursue an academic curriculum that would qualify them to teach in Hawaii's public schools. This Program has encouraged students to prepare and seek certification in declared shortage areas, and assisted non-traditional students to complete necessary coursework for a career in education.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 3063 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2342 Education on H.B. No. 3934

The purpose of this bill is to establish a two-year pilot Hawaii young scholars program in five selected elementary schools.

Your Committee finds that there is a need for early identification of elementary school students who may benefit from a comprehensive college preparation program. Currently, the Hawaii Opportunity Program in Education (HOPE) initiated by the Legislature in 1990 identifies students of certain ethnic groups enrolled in special needs programs for participation in a college preparatory program. Your Committee further finds that there are also educationally disadvantaged students who are not enrolled in special needs programs who would benefit from a complimentary program.

Your Committee has amended this bill by:

- (1) Giving the Department of Education discretion in establishing the pilot program; and
- (2) Allowing the Department of Education to develop the specifications for the contract rather than mandating them in the statutes; and
- (3) Rewording some of the language in Section 1 for precision, diction or form.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 3934, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3934, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2343 Education on H.B. No. 3493

The purpose of this bill, as received, is to create school-level accounts for minor repair and maintenance projects.

Your Committee is aware of the backlog of repair and maintenance projects which plague our schools and reflect the inefficiency of a highly centralized system. Your Committee further finds that giving each school the discretion to make minor repairs when necessary is a step towards achieving the goal of school/community based management. However, your Committee is also aware that the establishment of individual accounts may not be the best solution, nor will the amount of funds in these accounts be sufficient for many schools to address this critical problem.

Your Committee, therefore, has amended this bill by deleting its substance and earmarking part of the appropriation to establish additional handyman positions within the Central Services Division of the Department of Accounting and General Services. These handyman positions are to be dedicated to the school repair and maintenance program and will expand the existing program to areas of critical need. The intent of the bill is preserved by giving the schools discretion, although without the necessity for individual accounts.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 3493, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3493, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2344 Science, Technology and Economic Development on H.B. No. 2307

The purposes of this bill are to allow the Public Utilities Commission to disconnect the telephone numbers of motor carriers who advertise in violation of State law and to specify that good faith compliance shall serve as a complete defense for any public utility in any criminal or civil action brought forth from the termination of telephone services.

This bill is designed to provide a meaningful sanction for non-complying motor carriers who illegally advertise as licensed motor carriers.

Your Committee has amended this bill by substituting an immunity from liability in place of a complete defense. This would avoid the necessity of having the public utility go through a lawsuit to prove its defense. An immunity should stop a lawsuit from even being filed. Technical amendments were made for style and form.

Your Committee on Science, Technology and Economic Development is in accord with the intent and purpose of H.B. No. 2307, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2307, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 2345 Science, Technology and Economic Development on H.B. No. 2544

The purpose of this bill is to authorize the issuance of special purpose revenue bonds to Hawaiian Electric Company, Inc., and its subsidiaries, for necessary capital improvements.

Your Committee finds that the savings in interest cost from the issuance of the bonds will be reflected in lower electricity rates to consumers and is, therefore, in the public interest.

Your Committee has amended the bill by deleting the requirement that the Public Utilities Commission, in its annual report, assess how the funding supports State energy policies. In addition, your Committee has amended the bill to clarify that refunding bonds may be issued after December 31, 1995, the expiration date for the original issuance of bonds.

Your Committee on Science, Technology and Economic Development is in accord with the intent and purpose of H.B. No. 2544, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2544, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2346 Science, Technology and Economic Development on H.B. No. 2374

The purpose of this bill is to allow the Department of Land and Natural Resources to participate on behalf of Hawaii with the other western states in a joint liaison program with the Center for Ocean Analysis and Prediction of the National Oceanic and Atmospheric Administration.

Your Committee finds that the State's participation in this valuable federal program would serve to open communications with and encourage cooperation between the federal government and the western states in the sharing of data and information on the use and management of our precious ocean resources.

Your Committee on Science, Technology and Economic Development is in accord with the intent and purpose of H.B. No. 2374 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2347 Science, Technology and Economic Development on H.B. No. 3280

The purpose of this bill is to allow the telephone company to recover its capital costs for enhanced 911 emergency telephone services and associated operating expenses.

Your Committee finds that an enhanced 911 system will significantly facilitate police, fire, and medical emergency assistance and is therefore in the public interest.

Your Committee has amended the bill by providing that cost recovery will be implemented through a telephone line surcharge for the first three years and through additions to the rate base thereafter. Amendments were also for style and clarity.

Your Committee on Science, Technology and Economic Development is in accord with the intent and purpose of H.B. No. 3280, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3280, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2348 Science, Technology and Economic Development on H.B. No. 3425

The purpose of this bill is to propose a constitutional amendment to prohibit the counties from taxing the real property of any public utility that is currently paying state public service company taxes.

Your Committee finds that although it was the intent of the legislature to impose a public service company tax on public utilities in lieu of all other taxes, an amendment to the Constitution was never made, thereby leaving the potential for double taxation.

Your Committee has amended the bill to:

- (1) Limit the exemption to real property used in connection with public utility business;
- (2) Define the term "public utility" to limit the exemption to gas, electric, and telephone public utilities;
- (3) Rephrase the ballot question for clarity; and
- (4) Rephrase Section 1 of the bill for clarity and correct form.

Your Committee on Science, Technology and Economic Development is in accord with the intent and purpose of H.B. No. 3425, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3425, H.D. 2, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 2349 Science, Technology and Economic Development on H.B. No. 3463

The purpose of this bill is to appropriate funds for the Electric Vehicle Association of Hawaii to host an international electric vehicle conference.

Your Committee finds that the use of electric vehicles would lessen the State's dependence on imported oil. It would therefore be in the public interest to support a conference that would promote the use of this nonpetroleum, alternative energy source.

Your Committee has amended the bill by eliminating the dollar amount of the appropriation for determination by the Ways and Means Committee.

Your Committee on Science, Technology and Economic Development is in accord with the intent and purpose of H.B. No. 3463, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3463, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2350 Science, Technology and Economic Development on H.B. No. 3505

The purpose of this bill is to appropriate funds for the Big Island Electric Vehicle Association to demonstrate the feasibility and acceptability of converting cars that run on fossil fuels to alternate fuels, establish a network of alternate fuel dispensing and recharging stations, and provide a public information center.

Your Committee finds that the use of electric cars will decrease the State's dependence on imported oil. It would therefore be in the public interest to support all activities which encourage the use of this alternate energy source.

Your Committee has amended the bill by eliminating the appropriation amount for consideration by the Ways and Means Committee. Also, the provision that a public information center be located in Puna has been deleted and replaced by public information centers at no specified locations.

Your Committee on Science, Technology and Economic Development is in accord with the intent and purpose of H.B. No. 3505, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3505, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2351 Science, Technology and Economic Development on H.B. No. 3642

The purpose of this bill is to authorize the issuance of special purpose revenue bonds to assist the Wailuku River Hydroelectric Power, Company, Inc., in establishing a hydroelectric power plant and related facilities.

Your Committee finds that the establishment of a hydroelectric power plant will help reduce Hawaii's dependence on imported oil and is in the public interest.

Your Committee on Science, Technology and Economic Development is in accord with the intent and purpose of H.B. No. 3642 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2352 Science, Technology and Economic Development on H.B. No. 3643

The purpose of this bill is to authorize the issuance of special purpose revenue bonds for Kawaihae partners to establish a cogeneration facility that would produce electricity and desalinized water.

Your Committee finds that as the construction of a cogeneration facility would decrease Hawaii's dependence on imported oil, as well as increase the State's supply of fresh water, it would be in the public interest to authorize the issuance of special purpose revenue bonds for this project.

Your Committee on Science, Technology and Economic Development is in accord with the intent and purpose of H.B. No. 3643, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2353 Science, Technology and Economic Development on H.B. No. 3134

The purpose of this bill is to develop a comprehensive, integrated State energy emergency preparedness plan, to appropriate funds for the petroleum products control fund, and to appropriate funds to each of the counties for energy emergency preparedness.

Your Committee finds that a consistent, up-to-date energy emergency plan is necessary to ensure Hawaii's energy emergency response capability in the event of a significant change in the State's supply or demand for petroleum.

Your Committee on Science, Technology and Economic Development is in accord with the intent and purpose of H.B. No. 3134, H.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2354 (Joint) Tourism and Recreation and Planning, Land and Water Use Management on H.B. No. 3982

The purpose of this bill is to preserve Diamond Head by:

- (1) Requiring all state lands within and adjacent to the Diamond Head State Monument to be returned to the Department of Land and Natural Resources for inclusion in the monument;
- (2) Designating the Diamond Head State Monument Plan of 1979 as the official plan for the monument;
- (3) Establishing a moratorium on construction and the expansion of existing buildings and structures in the monument area;
- (4) Transferring title to the abandoned reservoir site from the City and County of Honolulu to the State; and
- (5) Appropriating \$200,000 for improvement of the Diamond Head trail system, and \$75,000 for the relocation of the Hawaii National Guard and Federal Aviation Administration crater facilities.

Your Committees heard testimony in support of this measure from the Department of Land and Natural Resources, Hawaii's Thousand Friends, Waikiki Residents Association, The Outdoor Circle, West Diamond Head Community Association, East Diamond Head Association, Save Diamond Head Association, Historic Hawaii Foundation, the district's Councilmember, Neighborhood Board No. 5, and concerned citizens.

Your Committees find that this measure will contribute greatly to the preservation and public enjoyment of what is undoubtedly a world-recognized symbol of the splendor of our islands.

Your Committees have amended the bill by inserting provisions governing the procedures for the withdrawal of lands presently under the control and management of the Department of Defense and the Federal Aviation Administration. Your Committees have also made several nonsubstantive technical changes for purposes of clarity and consistency.

Your Committees on Tourism and Recreation and Planning, Land and Water Use Management are in accord with the intent and purpose of H.B. No. 3982, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3982, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committees.

SCRep. 2355 Agriculture and Environmental Protection on H.B. No. 2039

The purpose of this bill is to appropriate \$1 to be deposited into the water pollution control revolving fund to provide financial assistance to governmental agencies for the planning, design, and construction of treatment works.

Your Committee has amended the bill by deleting the appropriated sum and leaving the amount blank.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of H.B. No. 2039, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2039, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2356 Agriculture and Environmental Protection on H.B. No. 2320

The purpose of this bill is to appropriate \$350,000 to conduct a statewide household hazardous waste collection project.

Your committee finds that hazardous waste collection and disposal projects conducted by the Department of Health in the past several years have been tremendously successful. Therefore your Committee finds it in the public interest to continue this project.

Your Committee has amended the bill by deleting the appropriated amount and leaving the amount blank.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of H.B. No. 2320, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2320, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2357 Agriculture and Environmental Protection on H.B. No. 3660

The purpose of this bill is to have the Bishop Museum conduct a biological survey that will involve an ongoing natural history inventory of the Hawaiian Archipelago to locate, identify, evaluate, and maintain the reference collections of all species of flora and fauna within the State.

Your Committee finds that there is a current effort throughout the United States to create a national biological survey. However, such a survey would focus primarily on the ecosystems of mainland states. The Hawaiian Archipelago is extremely diverse and full of fragile ecosystems which evolved in isolation. By having the Bishop Museum conduct a state biological survey, the State will be able to gain a head start on the national biological survey, attract federal and outside foundation funding, and bring national recognition to the efforts of the museum.

Your Committee has made several technical amendments that have no substantive effect.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of H.B. No. 3660, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3660, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2358 Judiciary on H.B. No. 400

The purpose of this bill is to amend provisions of the Hawaii Revised Statutes to correct errors, update references, clarify language or delete obsolete or unnecessary provisions. All amendments are technical and contain no substantive changes to the law.

Your Committee amended this bill by gutting its substance and using it as a vehicle to add a new section to Chapter 490, Hawaii Revised Statutes. This section was inadvertently deleted by Act 118 of 1991 Session Laws of Hawaii, pertaining to negotiable instruments under the Uniform Commercial Code.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 400, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 400, S.D. 1, and be recommitted to the Committee on Judiciary.

Signed by all members of the Committee except Senators Tungpalan and Koki.

SCRep. 2359 Judiciary on H.B. No. 770

The purpose of this bill is to establish and fund procedures by which voters who reside in new precincts, by reason of reapportionment or change of address since the last election, may register on the day of the election. The bill also makes it a class C felony for anyone to intentionally or knowingly use these new procedures to vote illegally.

Testimony was submitted by the Office of the Lieutenant Governor, the Hawaii Association of Clerks and Election Officers of Hawaii, the League of Women Voters of Hawaii, Hawai'i Women's Political Caucus and American Civil Liberties Union of Hawai'i -- all of which supported maximizing voter participation.

Your Committee amended the bill to permit election day reregistration and voting by persons who were validly registered for the previous elections, but who changed their residence and failed to correct their registration prior to the registration deadline. Currently, such persons are permitted to reregister on election day but are not permitted to vote.

First, your Committee deleted provisions concerning registration by voters who change precincts by reason of reapportionment. According to the Office of the Lieutenant Governor, these voters do not have to reregister. Subsequent to reapportionment, these voters are placed in their proper precincts and are notified of these new placements by election officials. If there is an error in their placement, the clerk may at any time correct the error pursuant to section 11-22, Hawaii Revised Statutes.

Your Committee made other amendments in order to effectuate the new intent of the bill. More specifically your Committee:

- (1) Referenced section 11-21(c), Hawaii Revised Statutes, the election day reregistration and voting provision, in sections 11-18 and 11-19, Hawaii Revised Statutes, pertaining to transfer of registration requirements;
- (2) Amended section 11-21, Hawaii Revised Statutes, regarding election day reregistration changes to authorize registration transfers and voting at the new and proper precinct. In order to insure order and authenticity, the use of an affidavit or form prescribed by the chief election officer is required;
- (3) Deleted the proposed amendments to section 11-15(c), Hawaii Revised Statutes, since these are addressed by section 11-21, Hawaii Revised Statutes, as amended;
- (4) Deleted the proposed amendments to section 11-24, Hawaii Revised Statutes, and inserted a reference to section 11-21, as amended;
- (5) Amended section 15-7, Hawaii Revised Statutes, regarding absentee voting places, so that walk-in absentee voters can use the election day reregistration and voting procedures;
- (6) Deleted Section 3 of the bill, which amended section 19-3.5, Hawaii Revised Statutes, pertaining to voter fraud, since your Committee believes that the activities the amendments seek to address are already covered by existing provisions in section 19-3.5;
- (7) Deleted Sections 4 and 5 of the bill since testimony from the Office of the Lieutenant Governor and county clerks indicates that the election day reregistration and voting procedures can be implemented with existing resources; and
- (8) Made other technical, nonsubstantive amendments for purposes of clarity and style.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 770, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 770, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Crozier, Tungpalan and Koki.

SCRep. 2360 Judiciary on H.B. No. 2612

The purpose of this bill is to appropriate funds to the Department of the Attorney General for the development of an incident-based statistical gathering model for the collection of data on victims of crimes evidencing prejudice or an irrational hostility toward another person or group of persons based on gender. In addition, this bill requires the Department to submit the model, together with findings, recommendations, and any necessary implementing legislation, to the Legislature twenty days before the convening of the regular session of 1993.

Your Committee received numerous testimonies in support of the bill. The Department of the Attorney General, Hawaii Women Lawyers, Sex Abuse Interventions, Hawaii State Committee on Family Violence, Kauai County YWCA, Hawaii State Commission on the Status of Women, and Child and Family Service testified in support of the bill. In addition, Hawaii Civil Rights Commission requested that the bill be expanded to include other categories of bias-motivated crimes, and The Sex Abuse Treatment Center asked that the Attorney General obtain input from other criminal justice agencies in the development of the model.

American Civil Liberties Union of Hawaii supported the concept of the bill but expressed concern about the definition of "hate crime" and the standard by which data on such crimes are to be collected. It feared that the inclusion of a broad number of acts of questionable or unclear motivations will result in skewed statistics, misinterpretations, and misapplications.

The Office of the Public Defender supported the collection of data which would assist in identifying areas of special needs, laws and services. However, it made the following suggestions: (1) data collection should not be limited to gender-based crimes but should include other bias-motivated crimes; (2) the services of a consultant or the legislative auditor

should be considered for purposes of defining the criteria and methods of classifying "hate crimes;" and (3) the data should be comparable to that of other states.

Your Committee amended this bill to conform it to the Senate's more inclusive position (S.B. 2257, S.D. 1) regarding the collection of data on bias-motivated crimes. In his testimony, the Attorney General's representative noted: "the appropriation of \$50,000 would be sufficient to develop a more comprehensive model data collection mechanism which will include hate crime statistics as envisioned by Senate Bill No. 2257, S.D. 2 and the gender based-information required by this specific proposal."

Your Committee finds that hate crime statistics are needed in order to determine the scope and extent of the problem in Hawaii. They will enable the Legislature and other policy makers to reallocate resources and enact statutory amendments as needed to deter these crimes.

Your Committee also finds that assigning the responsibility to the Department of the Attorney General is appropriate because the Department administers the Hawaii Uniform Crime Reporting Program. The Uniform Crime Reporting Program at the national level collects hate crimes statistics pursuant to the Hate Crime Statistics Act 1990, which is the genesis of this bill.

Your Committee believes that the State should participate in reporting hate crime statistics to the Federal Bureau of Investigations for two reasons: (1) it will enable the State to compare with other jurisdictions and see where Hawaii follows or departs from national or regional trends, and (2) Hawaii's policy makers, both congressional and state, will have the necessary information to thoughtfully consider changes to current laws.

However, your Committee also recognizes the strain that the additional data collection responsibility will have on the already overburdened Uniform Crime Reporting Program. According to the Department of the Attorney General, the reporting of crimes statistics under the Uniform Crime Reporting Program is six months behind schedule. Reasons cited for delay were that the system is not fully automated (only the Honolulu Police Department generates UCR data by computer) and the lack of personnel and resources in the neighbor island police departments. Because of these problems, the Department of the Attorney General is unable to comply with the Federal Bureau of Investigation's request to participate in the reporting of hate crime statistics under the Uniform Crime Reporting Program.

After careful deliberation, your Committee adopted an alternative which accommodates both the need to collect hate crime information and the need to maintain the integrity of the present Uniform Crime Reporting Program. The bill was amended to allow the Department of the Attorney General time to develop a model for the collection of hate crime data. An expert consultant can be employed to develop the model data collection mechanism and at the same time ascertain whether there is a need for additional hardware, software, and personnel for the State and respective police departments.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2612, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2612, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Tungpalan and Koki.

SCRep. 2361 Judiciary on H.B. No. 3002

The purpose of this bill is to appropriate funds from the general revenues of the state to satisfy claims for legislative relief, judgments against the State, settlements and miscellaneous claims. The bill further provides the reasons and the amount and rate by which the appropriations contained in this bill exceed the state spending limit for fiscal year 1991-1992.

Your Committee was told, by the Department of the Attorney General, that since the measure was referred to your Committee six additional cases were settled or are in the process of being settled. The Department recommended payment of these additional claims. Furthermore, the Department requested that the appropriation for Akuna v. State of Hawaii be changed to include the interest applicable under section 662-8, Hawaii Revised Statutes.

Your Committee amended the bill by:

(1) Amending the amount appropriated for Akuna v. State of Hawaii to reflect the amount of interest accrued pursuant to section 662-8, Hawaii Revised Statutes;

(2) Including the additional case settlements as recommended by the Department of the Attorney General. However, the amount appropriated for Kay Austen v. State, et al. is left blank because the Department is unable to provide the amount at this time;

(3) Deleting the claim and appropriation for Interior Showplace, Inc. v. State of Hawaii to give your Committee additional time to review the files on the case;

(4) Deleting the amount and rate by which the appropriations exceed the general fund expenditure ceiling because your Committee does not have the total sum of appropriations at this time; and

(5) Correcting an error in Section 5 of the bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3002, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3002, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Tungpalan and Koki.

SCRep. 2362 Judiciary on H.B. No. 3666

The purpose of this bill is to amend section 607-1, Hawaii Revised Statutes, relating to the disqualification of judges. More specifically, the bill:

(1) Recuses a judge in situations where a reasonably prudent person would find an appearance of impropriety; and

(2) Authorizes a party or the attorney of a party (with the party's consent) one chance to have a judge disqualified by affidavit based on a good faith belief that the judge has a personal bias or prejudice against the party or the party's attorney or favors the opposite party or opposite party's attorney. The affidavit, however, must be filed before a trial or hearing, or must show good cause for failure to file within that time.

The Office of the Public Defender expressed concern that the bill may have adverse and unintended consequences and could be subject to abuse. For example, the "appearance of impropriety" standard could create problems on the neighbor islands, where it is not uncommon for the same judge to have previously sentenced the same individual in prior criminal matters. Furthermore, the bill permits a law firm or client to disqualify a judge from ever presiding over its cases.

The Judiciary, however, testified in support of the bill, stating that it contained adequate safeguards that reduce the possibility of forum shopping and disruption caused by attempts to disqualify a judge mid-trial. A number of individuals also testified in support of the bill, one of whom sought clarification that the clerk will not determine the validity of the affidavit. While not explicit in the bill, your Committee understands that the clerks will not "bounce" affidavits, either for technical or for substantive reasons.

The Hawaii State Bar Association testified in support of the bill's intent but requested the deletion of the one-time limitation. One private individual questioned whether the bill went far enough to protect individuals from biased judges.

Your Committee is in favor of the concept of one recusal per case. It affords an additional safeguard against a biased judge. The affidavit requirement also establishes a record that may be useful to the Judicial Selection Commission when it considers the retention of judges.

In light of these considerations, your Committee amended and restructured section 607-7, Hawaii Revised Statutes, so that it is consistent with the intent of the bill.

Subsection (a) is amended so that it sets forth the circumstances in which a judge is to be disqualified and the procedure by which a judge can recuse himself or herself. Your Committee deleted the word "prudent" so that a judge will be disqualified in situations where a reasonable person would find an appearance of impropriety. The provision in subsection (b) pertaining to the self-recusal of a judge is moved to subsection (a).

Subsection (b) provides for the recusal by affidavit of a judge who has a personal bias against or in favor of a party. This subsection is amended to allow a party's attorney with the party's consent (not just the party) to make and file an affidavit. Amendments were also made to clarify that the affidavit is to be filed with the clerk, and to make a technical nonsubstantive change.

Your Committee created a new subsection (c), which is similar to subsection (b), for the recusal by affidavit of a judge who has a personal bias against or in favor of a party's attorney. However, unlike subsection (b), subsection (c) is limited to civil cases.

Your Committee also wishes to clarify that the new subsections (b) and (c), as with the existing subsection (b), do not require a hearing or judicial determination prior to the judge's disqualification. Your Committee has been informed that the Judiciary's current practice under 607-1(b), Hawaii Revised Statutes, is to have the affidavit reviewed by a judge, who then makes a determination on whether the judge should be recused -- a practice which is at variance with the statute. The current statute provides that a judge is disqualified "whenever a party...makes and files an affidavit..." This bill provides that disqualification is effective upon the filing of an affidavit, if done prior to a trial or a hearing on a case.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3666, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3666, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Crozier, Tungpalan and Koki.

SCRep. 2363 Agriculture and Environmental Protection on H.B. No. 2959

The purpose of this bill is to appropriate \$120,000 to investigate the source of the recent algal blooms occurring off the West Maui coastlines.

Your Committee finds that rampant algal growths and the conditions which cause them, if left unchecked, could seriously degrade the marine environment.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of H.B. No. 2959, H.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Ikeda.

SCRep. 2364 Agriculture and Environmental Protection on H.B. No. 3072

The purpose of this bill is to authorize the Department of Agriculture to continue to transfer funds among the Agricultural Products Revolving Fund, the Agriculture Loan Revolving Fund, and the Aquaculture Loan Revolving Fund.

Your Committee received supporting testimony from the Department of Agriculture.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of H.B. No. 3072, H.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Ikeda.

SCRep. 2365 Culture, Arts and Historic Preservation on H.B. No. 3306

The purpose of this bill is to provide that the salary of the executive director of the Hawaii Public Broadcasting Authority shall be established by the Board of Public Broadcasting and the Director of Commerce and Consumer Affairs. The salary to be set for the executive director shall be limited to the salary of a second deputy in an executive department.

The Department of Commerce and Consumer Affairs submitted testimony in support of this measure.

Your Committee on Culture, Arts and Historic Preservation is in accord with the intent and purpose of H.B. No. 3306, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2366 Culture, Arts and Historic Preservation on H.B. No. 3936

The purpose of this bill is to make an appropriation of \$140,000 to protect, preserve, and manage the saltponds at Hanapepe, Kauai.

Your Committee finds that there are number of problems at this state-owned property as a result flooding, poor drainage and contaminants. The Hanapepe Saltponds is a cultural site of high preservation value, which is still being utilized in the traditional manner for the gathering and production of salt. The method of salt production is unique in the State. It involves sea water percolating up through the ground.

The Department of Land and Natural Resources is favorably disposed to this bill.

Your Committee on Culture, Arts and Historic Preservation is in accord with the intent and purpose of H.B. No. 3936, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2367 Culture, Arts and Historic Preservation on H.B. No. 3070

The purpose of this bill is to authorize the State Foundation on Culture and the Arts (SFCA) to establish an assistant director position, exempt from the provisions of Chapters 76 and 77, Hawaii Revised Statutes.

It is the intent of this bill to enable the State Foundation for Culture and the Arts to fulfill its goals by establishing an assistant director position to aid the executive director in coordinating and implementing the agency's operations and activities.

Your Committee has made a technical, nonsubstantive amendment for the purposes of clarity and style which does not affect the substance of this bill.

Your Committee on Culture, Arts and Historic Preservation is in accord with the intent and purpose of H.B. No. 3070, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3070, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2368 (Joint) Science, Technology and Economic Development and Planning, Land and Water Use Management on H.B. No. 3442

The purpose of this bill is to create a marine and coastal affairs program within the office of state planning to develop an overall ocean resources plan and policy.

Your Committees find that it is necessary to develop a more coordinated and consistent ocean management strategy and to nurture and protect our valuable marine and coastal resources. An effective marine and coastal affairs program will reduce conflict over land and water uses, assure the protection of valuable resources, and increase opportunities for economic growth and diversification.

Your Committees have amended the bill by increasing the membership of the advisory council from eleven to fifteen members and by specifying that they include representatives from each of the planning departments of the counties, representatives from the departments of land and natural resources, health, transportation, and business, economic development, and tourism, and the University of Hawaii's school of ocean and earth science and technology, and five non-government members appointed by the governor for staggered terms.

Your Committees have further amended the bill by allowing the deputy director, who serves as chair of the advisory council, to vote, and by making technical amendments.

Your Committees on Science, Technology and Economic Development and Planning, Land and Water Use Management are in accord with the intent and purpose of H.B. No. 3442, H.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3442, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committees.

SCRep 2369 Science, Technology and Economic Development on H.B. No. 3127

The purpose of this bill is to strengthen the Community-Based Economic Development (CBED) Program.

Specifically, the bill gives the Director of Business, Economic Development, and Tourism until June 30, 1993 to employ civil service exempt staff and transfer up to \$1,000,000 from the Hawaii Large Fishing Vessel Purchase, Construction, Renovation, Maintenance, and Repair Loan Revolving Fund into the Hawaii Community-Based Development Revolving Fund. The authority to transfer funds would be effective on July 1, 1992.

CBED was established in 1990 to facilitate economic development efforts on the community level through an Advisory Council appointed by the Governor to assess and make recommendations to the Department on proposed businesses and enterprises seeking financial assistance. Community response to the Program has been positive and clearly indicates that to be effective, the Council requires skilled, full-time staff, preferably appointed by the Director, to ensure that each employee possesses specific qualities and abilities needed to carry out the Program's stated purpose. In addition, the Program is severely underfunded in relation to current requests for assistance, whereas the Hawaii Large Fishing Vessel Purchase, Construction, Renovation, Maintenance, and Repair Loan Revolving Fund has considerable unencumbered resources that would be better utilized by CBED.

Your Committee finds that the Director requires the authority contemplated by this bill in order to ensure that the CBED Program will be able to meet the economic development needs of Hawaii's communities.

Your Committee has amended the bill by reducing the number of people the director may employ from three to two people and stating that one shall serve in a professional capacity and the other in a clerical.

Your Committee has also deleted the amount the director of business, economic development, and tourism may transfer from the Hawaii large fishing vessel purchase, construction, renovation, maintenance, and repair loan revolving fund to the Hawaii community-based development revolving fund for consideration by the Committee on Ways and Means.

Your Committee on Science, Technology and Economic Development is in accord with the intent and purpose of H.B. No. 3127, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3127, H.D. 2, S.D. 2, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2370 Consumer Protection and Business Regulation on H.B. No. 3163

The purpose of this bill is to make more equitable the manner in which financial institutions in the State are taxed.

Your Committee received favorable testimony from the Department of Taxation (DTAX).

Your Committee finds that the bill is the product of more than three years of work which began with the recommendation of the Tax Review Commission, a study group comprised of industry officials, DTAX, and other concerned industry representatives.

During the course of this group's activities, it was determined that, in today's financial marketplace, financial services are being provided by not only the traditional bank and thrift institutions, but other types of "financial service entities."

In recognition of these findings, the Tax Review Commission recommended that the franchise tax be updated, streamlined, and made more like the corporate income tax. Additionally, the Commission recommended that the general excise tax be amended to provide greater equality by eliminating the blanket exemption and replacing it with exemptions for specific types of income.

Specifically, the bill proposes to restructure the general excise tax exemption by limiting its application to amounts received as interest income, loan fees, fees relating to customer deposits, gains received from currency exchanges, certain trust company activities, brokerage services of interbank brokers, and the leasing of personal property.

In addition, the bill proposes to make the income taxation of financial institutions substantially similar to the taxation of other corporations; the method of determining income and the treatment of income by source is nearly identical to generally applicable corporate tax rules. The deduction for federal income taxes would be eliminated and the treatment of capital gains would conform to regular corporate tax treatment.

Your Committee further finds that the bill is a means by which the taxation of financial institutions may be handled in a more equitable and updated manner and the first step toward establishing a system for the taxation of interstate banking.

Your Committee has made a technical amendment that has no substantive effect.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of H.B. No. 3163, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3163, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2371 Consumer Protection and Business Regulation on H.B. No. 3277

The purpose of this bill is to amend the laws relating to insurance company taxation.

Your Committee received testimony in support of the measure from the law firm of Furutani, Sato, Komatsubara and Marshall.

The Department of Taxation, which opposed the bill, acknowledged existing concerns over the constitutionality of current state tax provisions imposing on foreign insurers rates higher than those applicable to domestic insurers. It cited pending litigation involving the rate differential, which was brought by fifty-five insurance companies and has tied up more than \$106.5 million in tax revenues, and suggested that the Legislature defer the enactment of uniform tax rates until the case is resolved.

Upon consideration, your Committee believes that the uncertain benefit to be derived from deferring action on uniform rates until resolution of the pending court case is outweighed by the pressing need to enact legislation that is both constitutional and fair to foreign and domestic insurers alike.

Your Committee finds that the bill addresses the constitutional and fairness issues by establishing uniform rates applicable to both domestic and foreign insurers. Under the measure, 4.75 percent will be the rate applicable to all insurance contracts except life, disability, title, and ocean marine contracts, for which the rates will be 3.197, 3.50, 4.29, and .8775 percent, respectively. In the case of ocean marine contracts, the tax will be based on gross underwriting profits rather than gross premiums, the latter being the standard in all other cases.

Additionally, the bill provides tax credits for employment related expenses such as unemployment, workers compensation, and temporary disability insurance, and reworks the existing payment schedules.

Your Committee has amended the bill by establishing a three-year statute of limitations on the assessment, levy, collection, and crediting of taxes on insurance companies, and by clarifying provisions relating to tax refunds and retroactivity.

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

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of H.B. No. 3277, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3277, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2372 Transportation and Intergovernmental Relations on H.B. No. 3148

The purpose of this bill is to create an office of international relations within the office of the Governor.

Your Committee finds that the centralization of international activities to better coordinate and maximize use of resources and avoid duplication of efforts is consistent with the State's strategic plan for international activities.

Your Committee has amended the bill as follows:

Changing the positions of the office staff from exempt to non-exempt subject to chapters 76 and 77.

Providing that the office shall have the responsibility to attract international trade, business, and investments to the State.

Providing that the office submit a comprehensive state strategic plan for international activities to the Legislature by December 31, 1992, for acceptance or disapproval by concurrent resolution.

Deleting the sections on receipt of gifts being held in trust and the establishment of a trust account and inserted therefor a section providing that gifts, contributions or donations of money shall be paid into the State treasury.

Adding a drop dead date of June 30, 1995.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of H.B. No. 3148, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3148, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2373 Transportation and Intergovernmental Relations on H.B. No. 3164

The purpose of this bill is to adjust the amount of income tax credit which can be claimed by taxpayers who reside in counties which impose the county general excise and use tax surcharge.

Your Committee finds that the tax credit schedule adopted in relation to the one-half percent county tax surcharge was based upon a formula which underestimated spending for taxable items by middle and lower income consumers and overestimated spending by higher income consumers. A recent study conducted by the Department of Taxation revealed that as an individual's income increases, less income is used for purchase of items subject to the general excise tax and more is spent on non-taxable investments. Your Committee, therefore, has determined that the credits for lower and middle income groups should be increased and credits for higher income groups should be decreased.

Your Committee further finds that in order to promote parity within the tax system, the credit provided under the medical services excise tax credit should reflect the additional one-half percent which will be collected if the counties impose the excise tax and use surcharge. Similarly, your Committee has also determined that the same parity should be afforded the capital goods excise tax credit on purchases made in counties which have imposed the surcharge.

Your Committee has amended this bill by establishing a separate tax credit schedule for taxpayers who reside in counties which do not impose the county surcharge. This schedule recognizes that the burden on these taxpayers will be less, and so the amount which can be claimed should be smaller.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of H.B. No. 3164, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3164, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2374 Transportation and Intergovernmental Relations on H.B. No. 3430

The purpose of this bill is to require that future changes in moorage fees and rates or fees pertaining to harbors, wharves, and other properties managed and operated by the Department of Transportation be subject to disapproval by concurrent resolution by the Legislature.

Your Committee finds that it would be in the public interest to provide an opportunity for legislative input that represents a statewide constituency on changes in all fees or rates relating to the State's harbors and wharves.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of H.B. No. 3430, H.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2375 (Majority) Transportation and Intergovernmental Relations on H.B. No. 3692

The purpose of this bill is to repeal the transit capital development fund on October 1, 1992, if the City and County of Honolulu establishes a general excise and use tax surcharge.

Establishing a date for the abolishment of the transit capital development fund is consistent with the intent of the legislature when it established the fund in 1990.

Your Committee has amended the bill by making technical, non-substantive amendments to the bill.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of H.B. No. 3692, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3692, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.
Senator Cobb did not concur.

SCRep. 2376 Transportation and Intergovernmental Relations on H.B. No. 3697

The purpose of this bill is to commit all private source revenues received while a county general excise and use tax surcharge is in effect to the capital costs of a fixed rail rapid transit system.

The intent of this bill is to clarify the intent of the present law.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of H.B. No. 3697, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2377 (Joint) Health and Human Services and Employment and Public Institutions on H.B. No. 3801

The purpose of this bill, as received, is to establish two hospital commissions for the purpose of restructuring the community hospitals in Maui and Hawaii counties to operate as nonprofit corporations. This bill also provides an appropriation of \$200,000 to hire a consultant to assist the commissions, and extends to 1993 the repeal date of Act 223, Session Laws of Hawaii 1990.

Your Committees received conflicting testimony about this measure from the parties involved in the discussion about administrative restructuring of the hospitals. This indicates to your Committees that the parties have not been able to reach agreement on a plan acceptable to everyone. Your Committees, therefore, have determined that an independent party should be hired to evaluate the various proposals and make a recommendation to the Legislature.

Accordingly, your Committees have amended this bill by deleting its substance and inserting provisions which require the Governor to appoint a Special Master to determine the most effective means of restructuring the administration of the hospitals, and requesting a report to the 1993 Legislature from the Special Master to include a specific recommendation and implementation plan and a list of resources necessary for implementation.

The Special Master will work with the Director of Health, interested labor unions, and hospital staff and may hire civil service exempt personnel to help carry out the task. In coordination with these provisions, your Committees have also amended Act 223 by extending the repeal date to June 30, 1994, and inserting a blank appropriation to pay for the special master and related employees.

Your Committees have also added a blank appropriation for fiscal year 1992-1993 to pay for collection of accounts receivable owed the hospitals, with provision for a report to the 1993 Legislature. Your Committees note that debt collection, or accounts receivable, is one of the weakest points in the management of the community hospitals.

Your Committees on Health and Human Services and Employment and Public Institutions are in accord with the intent and purpose of H.B. No. 3801, H.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3801, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committees except Senator Crozier.

SCRep. 2378 Agriculture and Environmental Protection on H.B. No. 2519

The purpose of this bill is to establish the Glass Incentive Special Fund to be administered by the Department of Health (DOH). The funds deposited to the special fund will be:

- (1) Generated by charging an assessment fee of 2 cents per glass container to glass packaging importers; and
- (2) Distributed to the counties for their glass recovery programs.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of H.B. No. 2519, H.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Ikeda.

SCRep. 2379 Agriculture and Environmental Protection on H.B. No. 3233

The purpose of this bill is to provide a means of disposing of spent glass in an environmentally acceptable manner by requiring that crushed glass (glassphalt) be used as an aggregate in the asphalt mix in all state and county road construction and paving projects following development of appropriate standards by the Director of Transportation.

Pending the development of standards, the use of crushed glass will be required in all state and county contracts involving non-structural applications such as cushioning and backfill.

Your Committee finds that current glass recycling programs have been unsuccessful because of the limited market for recycled glass in Hawaii. Hence, those wishing to recycle glass must pay shipping costs to the mainland which can exceed the value of the end product.

Your Committee further finds that, by using crushed glass as an aggregate in the asphalt mix used for road construction and paving, Hawaii could conserve limited landfill space while at the same time saving substantial public dollars. Demonstration projects in Hawaii as well as in other states have established the feasibility of such a program.

Your Committee has amended the bill by inserting language that limits the use of glassphalt to roads with a speed limit of forty miles per hour or less.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of H.B. No. 3233, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3233, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Ikeda.

SCRep. 2380 Consumer Protection and Business Regulation on H.B. No. 3011

The purpose of this bill is to strengthen the State's Insurance Code by amending it to meet the national accreditation standards of the National Association of Insurance Commissioners (NAIC).

Testimony in support of the measure was received from the Department of Commerce and Consumer Affairs (DCCA) and the Hawaii Independent Insurance Agents Association.

Your Committee finds that the failure of companies such as Executive Life Insurance Company and Mutual Benefit Life Insurance Company in recent years has underscored the need for increased regulatory scrutiny of insurance companies.

Your Committee believes that this bill will bring the State's Insurance Code into compliance with national standards and provide the safeguards necessary to prevent future insurance company failures from occurring.

The bill, consisting essentially of six parts, provides for stricter disclosure, review, reporting, and financial examination requirements consistent with NAIC standards. Accreditation will ensure that financial examinations conducted in-state will be accepted by the other states.

Your Committee has amended the bill by making several technical amendments that have no substantive effect.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of H.B. No. 3011, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3011, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2381 Consumer Protection and Business Regulation on H.B. No. 3620

The purpose of this bill is to require the Department of Commerce and Consumer Affairs (DCCA) to submit to the 1994 Legislature a proposal for the regulation and licensure of social workers and to delay the sunset of the chapter regulating social workers from 1992 to 1999.

The report mandated by the bill would include:

- (1) Definitions of "social worker" and "social work" tied to the scope of practice to be regulated;
- (2) A licensing scheme for social workers;
- (3) Suggestions on the implementation of a licensure program; and
- (4) Findings on the impact a licensure program would have on government employed social workers.

Your Committee finds that, according to the Legislative Auditor's November 1991 Sunset Evaluation Report, the regulation of social workers is not currently warranted. However, your Committee is concerned that, without some form of regulation, unscrupulous practices in the social work profession may occur. Your Committee is also cognizant that the licensure of social workers may be used as a protectionist tool to limit the number of social workers and, thereby, access to affordable help from them.

Therefore, both your Committee and the DCCA are hard pressed to strike a balance between the two concerns and believe that a study on the restructuring of the existing regulatory scheme is in order.

Your Committee has made several technical changes that have no substantive effect.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of H.B. No. 3620, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3620, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2382 Planning, Land and Water Use Management on H.B. No. 49

The purpose of this bill is to encourage participation in the Hawaii Statewide Trail and Access System by authorizing the Department of Land and Natural Resources to enter into agreements to defend and indemnify landowners against actions arising out of injury incurred by users of the land.

Any action defended by the State will be an action against the owner, and the existence of an agreement will not create a separate cause of action against the State or allow the State to be named as a party. Any judgment against an owner indemnified by an agreement would first have to be approved by the Legislature. An owner is defined as a person having an interest in or holding an encumbrance upon land in the State including a lease or easement interest.

Your Committee supports legislation that will enhance the Trail and Access System but prefers another approach. Therefore, your Committee has amended this bill by deleting its contents and inserting substantive provisions establishing the principle of "inherent risk" pertaining to use of land for recreational activities (Chapter 520, Hawaii Revised Statutes).

As amended, Chapter 520 provides that a user of land for recreation assumes any inherent risk (risk of injury) associated with the activity if the owner posts a sign warning the public that he is not liable for any injury associated with recreational activities carried out on his property. This concept has been enacted in Alaska and Utah, and your Committee finds that it will encourage landowners to participate in the Trail and Access System without unduly limiting causes of action for injury due to an owner's negligence. Your Committee notes that the owner still retains the right to prohibit any activity on his land but under this bill will have absolute immunity from any claims for injury arising from a recreational activity if he takes the simple precaution of posting a warning sign.

Your Committee on Planning, Land and Water Use Management is in accord with the intent and purpose of H.B. No. 49, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 49, H.D. 2, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 2383 Planning, Land and Water Use Management on H.B. No. 3062

The purpose of this bill is to provide a dedicated source of funding for the Natural Area Reserve and Forest Stewardship Programs and to remove them from the requirements of Chapter 42, Hawaii Revised Statutes.

The bill would provide for annual deposits into each Program's Fund (reclassified from "special" to "revolving") from proceeds arising out of the Public Land Trust. The State would have authority to determine which applicants are eligible for matching funds under the Natural Area Partnership Program without requesting proposals or admitting competition, and terminate funding of a management plan as it deems appropriate. A public hearing would be required before terminating funding, and termination without concurrence of the landowner would revoke the perpetual transfer of fee title or conservation easement provision currently required of participants. Provision is also made for the landowner to withdraw from the Natural Area Partnership Program, but in that case the perpetual easement would remain in effect. Reporting on the Program would include the amount to be deposited into the Fund the next fiscal year.

Addressing the Forest Stewardship Program, the bill deletes language relating to appropriations for the Fund and also calls for annual reporting of the amount to be deposited into the Fund the next fiscal year.

Your Committee is cautious regarding dedicated funding in these times of budget cutbacks and anticipated shortfalls in revenue collections. Your Committee is also of the opinion that both Programs should be subject to Chapter 42, as currently provided. Therefore, your Committee has amended this bill by deleting the dedicated funding and Chapter 42 exclusions and adding blank appropriations for both Programs for fiscal year 1992-1993. Your Committee has retained some language relating to termination of funding in that this terminology encompasses lapsing as well as arbitrary withdrawal of the State's contributions (implying dedicated funding), and dedicated funding should not be categorically ruled out despite being inappropriate this year.

Your Committee on Planning, Land and Water Use Management is in accord with the intent and purpose of H.B. No. 3062, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3062, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2384 Planning, Land and Water Use Management on H.B. No. 3724

The purpose of this bill is to protect the interests of the fee simple owner and lessor of real property where the lessee's interest has been forfeited pursuant to Chapter 712A, Hawaii Revised Statutes.

The holder of the reversionary interest will have first opportunity to acquire the remaining leasehold interest and any improvements on the property. If the holder declines to exercise the right of first refusal, the Attorney General is authorized to sell the leasehold interest and any improvements by public sale.

Your Committee finds that this bill will preserve the fee owner's control of the property and facilitate disposition in conformance with the essential policy of the forfeiture law to protect innocent third parties.

Your Committee has amended this bill by clarifying that the terminology "portion of years remaining on the existing lease and improvements" means "leasehold interest and improvements." Your Committee has also made technical changes that have no substantive effect.

Your Committee on Planning, Land and Water Use Management is in accord with the intent and purpose of H.B. No. 3724, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3724, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 2385 Judiciary on H.B. No. 2614

The purpose of this bill is to appropriate funds to the Legislative Reference Bureau for the implementation of a study to:

- (1) Evaluate the system of support services currently being provided by the counties to victims of domestic violence, excluding those services provided by law enforcement agencies.
- (2) Make recommendations to improve the delivery of these services.
- (3) Create models in each of the counties that will provide counseling, support and other social services to victims of domestic violence.

The Honolulu Police Department, the Hawaii State Commission on the Status of Women, Child and Family Service, and Hawaii Women Lawyers submitted testimony in support of the bill.

Your Committee spoke with a number of individuals interested the bill, including one of its sponsors, to gain a better understanding of the purpose of the bill and what is meant by the term, "victim support models."

Your Committee amended the bill to further clarify the type of study and model envisioned by the bill. More specifically, the bill is amended by:

(1) Directing the Legislative Reference Bureau ("LRB") to conduct a study to identify and evaluate social services and gaps in services currently being provided to victims of domestic violence, such as emergency care, shelter and counseling, excluding law enforcement and prosecutorial agencies. The bill also directs the LRB to make recommendations for the development of a model, in each county, that will assist victims in obtaining the support services necessary to make the transition from the abusive situation and deal with the legal procedures involved in the apprehension and prosecution of the abuser;

(2) Providing that the LRB may consider, but is not limited to, models similar to intake and referral services, victim witness or child advocacy programs, child or dependent adult protective services, sex abuse treatment programs, or a combination of these types of programs or services;

(3) Directing all state, county and private agencies providing services to provide full cooperation and support to the LRB;

(4) Defining "domestic violence" as domestic abuse, as defined by Chapter 586, Hawaii Revised Statutes, by a spouse or other intimate, to exclude neglect or abuse of a child or elder; and

(5) Making other conforming amendments.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2614, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2614, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Holt, Crozier and Reed.

SCRep. 2386 Judiciary on H.B. No. 2714

The purposes of this bill are:

- (1) to add a third associate judge to the intermediate appellate court;
- (2) to add an eighteenth judge to the first circuit court, effective upon the approval of this bill; and
- (3) to add a nineteenth judge to the first circuit, effective July 1, 1992.

Your Committee received testimony in support of the bill from the Judiciary, the Department of the Prosecuting Attorney, the Hawaii State Bar Association and a private citizen.

Your Committee notes that the aspect of this bill authorizing an eighteenth circuit court judge has been handled in H.B. No. 2799, S.D. 1. It has, therefore, been deleted from this bill.

On the basis of the testimony, it appears that the most pressing need is for additional circuit court judges. Therefore, your Committee deleted the authority for a third associate justice of the intermediate appellate court.

To more fully address the true scope of the shortage of circuit court judges, the bill has been amended to increase the authorization for circuit court judges to twenty-five. This is six more than were provided for in the bill as received. One would be funded in lieu of funding a third associate judge for the intermediate appellate court.

The increase in the number of authorized judges is designed to address both the backlog of cases and the excessive use of per diem judges. It is not assumed, in light of current fiscal constraints, that new funding will be available for all the additional circuit court judges.

Your Committee notes, with concern, that there is a pattern of judicial assignments which seems to be inconsistent with Article VI of the Hawaii State Constitution. Specifically, the equivalent of four divisions of the circuit court of the first circuit are run with district court judges. In turn, those district court judges' normal responsibilities are handled by per diem judges.

The effect is that four circuit courts are operated by judges who were not subjected to the judicial selection commission's screening process for circuit court judges, were not appointed by the Governor and whose appointments have not been consented to by the Senate. This problem is compounded by the operation of district courts by per diem judges who have not been selected from a list of names provided after scrutiny by the judicial selection commission.

Your Committee recognizes that this pattern of judicial assignments is grounded in the exigencies of meeting a greatly increased workload with a relatively static number of judicial positions. It is not your Committee's objective to assign blame for the current situation. In any event, we would probably find ourselves among those at the nub of any finger pointing. It is, however, your Committee's intent to end such use of per diem judges in the near future.

To this end, your Committee asks that the Committee on Ways and Means reduce the appropriation for per diem judges to the absolute minimum required and utilize any savings to fund circuit court positions authorized by this bill.

To give better guidance in the appointment and use of per diem judges, the bill has been amended to include changes to section 604-2. These amendments are given a delayed effective date, to provide a transition period for the conversion of the per diem positions.

Finally, since the current backlog of cases in the first circuit is substantially due to circumstances which culminated in the decision in *State v. Jordan*, ___ Haw. ___ (No. 91-0439), your Committee has further amended this bill to clarify what the decision in *State v. Jordan* found to be unclear -- legislative intent.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2714, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2714, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Holt, Crozier and Reed.

SCRep. 2387 Consumer Protection and Business Regulation on H.B. No. 2808

The purpose of this bill is to remove auctions, pawnbrokers, secondhand dealers, and scrap dealers from the sunset cycle of Chapter 26H, Hawaii Revised Statutes, and to restore to the counties the authority to decide whether to require the licensing of these businesses.

Upon consideration, your Committee has determined that there is a need to ensure the continued regulation of pawnbrokers and, additionally, that the archaic provisions now governing them should be brought in line with current practices. Your Committee has therefore amended the bill by deleting its contents and replacing them with the following provisions:

- (1) Added seven new definitions to Section 445-131, Hawaii Revised Statutes;
- (2) Repealed Sections 445-133 and 445-134;
- (3) Provided for written pawn agreements and specified their contents;
- (4) Required finance charge disclosures similar to those required by the federal Truth-in-Lending Act;
- (5) Limited pawn transactions to one month in duration with the possibility of month-to-month extensions;
- (6) Established a 30-day holding period for redemption of pawned goods;
- (7) Established a maximum finance charge of twenty percent per month;
- (8) Increased the penalties for violations of the pawnbroker law;
- (9) Changed the sunset review of pawnbrokers to December 31, 1995; and
- (10) Amended Section 26-9(o), to clarify that pawnbrokers are subject to payment of Compliance Resolution Fund fees.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of H.B. No. 2808, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2808, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Crozier.

SCRep. 2388 Consumer Protection and Business Regulation on H.B. No. 3040

The purpose of this bill is to expand the powers and duties of the Hawaii Property Insurance Association (HPIA) and limit the liability of the State in actions brought against HPIA.

Specifically, the bill:

- (1) Requires HPIA to report to the Insurance Commissioner, any nonpayment by a member insurer of an HPIA assessment and also provides that HPIA may bring a civil action to enforce payment;
- (2) Limits the liability of the State with regard to claims, debts, or causes of action arising out of HPIA actions or activities; and
- (3) Clarifies the standards to be used by the Insurance Commissioner in evaluating the HPIA's plan of operation.

The Attorney General, who testified in support of the bill, also stated that Section 431:21-111, Hawaii Revised Statutes, should not be amended. By removing the proposed amendment, the Insurance Commissioner would retain the authority to approve assessments of HPIA members if the HPIA is insolvent.

Your Committee, upon consideration of the testimony submitted, has amended the bill to reflect the concern of the Attorney General.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of H.B. No. 3040, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3040, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Crozier and Tungpalan.

SCRep. 2389 Employment and Public Institutions on H.B. No. 3119

The purpose of this bill is to continue transferring law enforcement positions and functions to the Department of Public Safety from other state departments.

Specifically, the bill transfers executive security officers in the Department of the Attorney General effective July 1, 1992; after-hours contract security employees with the Department of Education, including library security officers and contractual security officers, effective July 1, 1992; uniformed security employees and contractual security officers employed by the Department of Health for the state hospitals, effective January 1, 1993; and contractual security guards with the Department of Human Services, effective January 1, 1993.

Act 211, Session Laws of Hawaii 1989 established the Department of Public Safety as the umbrella organization for state law enforcement functions that had previously been assigned to various departments. Some personnel and functions were transferred by that Act, while the Director in consultation with the Governor studied other personnel and functions that should also be transferred. This bill will codify the recommendations made pursuant to that study.

The bill also provides an appropriation of \$1 for fiscal year 1992-1993 to facilitate the transfers.

Your Committee finds that the transfers proposed by this measure are consistent with the policy established by Act 211.

For discussion purposes, your Committee has amended this bill by deleting the amount to be appropriated. Your Committee has also changed the date of transfer of Attorney General Office and Department of Education personnel from July 1, 1992 to January 1, 1993 to accommodate the transition plans, and made some nonsubstantive technical changes for the purposes of clarity and style.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of H.B. No. 3119, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3119, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2390 Employment and Public Institutions on H.B. No. 3396

The purpose of this bill is to grant permanent status to twelve employees of the Hawaii Civil Rights Commission who currently occupy permanent, civil service positions on a temporary, exempt basis.

Act 299, Session Laws of Hawaii 1990, and Act 296, Session Laws of Hawaii 1991, provided funding for these positions despite the provision in section 368-3, Hawaii Revised Statutes, requiring investigators and support staff assigned to the Commission to be civil service employees.

Your Committee finds that this action was justified because the Commission needed time to classify the positions subject to civil service procedures, complete organization, adopt rules, and set up its operations.

Your Committee further finds that the Commission has invested considerable resources in training the employees on laws, investigating skills, processing of cases, clerical handling of cases, screening complaints, and maintenance of the Commission's internal and federally-linked computer information system. It would be inappropriate and contrary to the best interests of the Commission, the State's civil rights enforcement efforts, and the affected employees if they are not granted permanent status.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of H.B. No. 3396 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2391 Employment and Public Relations on H.B. No. 3890

The purpose of this bill is to re-establish the Inmate Grievance Project in the Department of Public Safety.

Specifically, the bill appropriates \$138,500 to fund four full-time positions (Department Grievance Officer, Facility Grievance Coordinator, Grievance Processor, and Secretary II) for fiscal year 1992-1993 and authorizes the Department to establish the positions on a permanent basis.

Inmate grievances have been escalating in recent years, tying up the courts and costing the taxpayers of this State millions of dollars to adjudicate. The Inmate Grievance Project, established with twelve positions for fiscal year 1990-1991 and refunded for fiscal year 1991-1992 with two positions, has proven effective. Your Committee finds that it should be made a permanent feature of the corrections program.

However, your Committee doubts that four full-time positions are necessary for the Project to be effective. Therefore, your Committee has amended this bill by reducing the appropriation to \$84,724 and authorizing establishment of one Grievance Coordinator and two Grievance Officers.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of H.B. No. 3890, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3890, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2392 Education on H.B. No. 1715

The purpose of this bill is to request the legislative reference bureau to study the feasibility and impacts of establishing a Hawaii State University in Hilo.

Your Committee finds that the establishment of a separate state university in Hilo may address many of the concerns surrounding the present University of Hawaii at Hilo. Your Committee further finds that a complete examination of the feasibility of establishing a separate university needs to be conducted.

Your Committee, therefore, has amended this bill to request a comprehensive study to include an examination of the various policy implications of establishing a separate university, the costs of expansions necessary to operate a separate university, potential impacts upon faculty recruitment and retention, potential impacts upon Hawaii community college and the rest of the university system, and the legislative actions necessary to establish a separate university.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 1715, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1715, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee Senators Holt and Reed.

SCRep. 2393 (Joint) Housing and Hawaiian Programs and Consumer Protection and Business Regulation on H.B. No. 2400

The purpose of this bill is to create a mortgage insurance revolving fund to be administered by the Housing Finance and Development Corporation to provide mortgage insurance for affordable rental apartment projects.

The Legislature finds that a state sponsored mortgage insurance program for the development or construction of affordable rental apartment projects is necessary to help these projects obtain mortgage financing with a view towards enabling the mortgagee to resell the mortgage in the secondary mortgage investment markets. The mortgage insurance is limited to private nonprofit corporations or government entities.

Your Committee has amended this bill to address the concerns of the administration that the State should not undertake to guarantee the repayment of mortgage loans by giving its full faith and credit backing. The administration believes that the guarantee should come from the private sector. As a compromise, your Committee has provided that the mortgage insurance shall constitute a general obligation of the State but shall not be backed by the full faith and credit of the State unless general obligation bonds are issued as provided by law on a case-by-case basis as authorized by the Legislature. The bill directs the HFDC to first seek an indemnity from the private sector for any losses which the State may incur and gives the HFDC the discretion to make the indemnity a condition of issuing the mortgage insurance.

Your Committee has further amended this bill by rewording its provisions for form and style without affecting the substance. The definitions section was not necessary as the words are used only once and are of plain meaning.

Your Committee is cognizant that this program is new and must be tested. The HFDC is directed to report annually to the Legislature on the operation and fiscal status of the fund. The sunset clause is deleted because of this annual reporting. There is also a technical problem with a sunset clause because the outstanding mortgage insurance would somehow have to be honored even if the law were repealed. This would be of obvious concern to the mortgage lenders and investors.

Your Committees on Housing and Hawaiian Programs and Consumer Protection and Business Regulation are in accord with the intent and purpose of H.B. No. 2400, H.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2400, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committees.

SCRep. 2394 Housing and Hawaiian Programs on H.B. No. 2504

The purpose of this bill is to authorize the establishment of mutual housing associations that will assist Hawaii residents to purchase, develop, build, or rehabilitate land and residential structures.

The participating residents will possess a personal property ownership interest in the residential dwellings.

Your Committee finds that such mutual housing associations would provide tenants with responsibility in operating and managing the housing projects in which they reside.

Your Committee has amended this bill by deleting provisions which would establish:

- (1) A Homebuyer's Club Program to assist participants save money for a down payment and resolve credit problems;
- (2) A Loan Guarantee Program for people who wish to purchase a home but who do not meet standard mortgage underwriting criteria; and
- (3) A Rent-to-Own Program that will allow developers to credit 50 percent of the rent received from resident participants to down payment or closing costs.

Your Committee has further amended this bill to provide that the real estate commission may adopt rules to carry out the purposes of this bill. Your Committee has also given the HFDC the responsibility of administering this law and

monitoring the operations of the associations. Technical, nonsubstantive amendments have been made for the purposes of clarity and style which do not affect the substance of the bill.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of H.B. No. 2504, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2504, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2395 (Majority) Housing and Hawaiian Programs on H.B. No. 2505

The purpose of this bill is to streamline the state and county land use development approval process for constructing housing.

Your Committee finds that Hawaii's land use approval process may be time-consuming and cumbersome to developers, adding to the already high cost of housing in the State. Your Committee also notes that the intent of such governmental approvals at both the state and county levels is to ensure proper, effective, and planned growth in the State. At the same time, the approval process is also meant to preserve the State's physical, economic, and social resources. Your Committee further finds that in some instances, processing ministerial development permits is delayed by inaccuracies and omissions from the applications submitted, and the turnaround time taken by applicants may complicate the ability of agencies to complete processing within the six month period contemplated by the bill.

Accordingly, your Committee has amended this bill to state that each county's task force shall consider, among other matters, how to comply with the six month requirement for processing and approval of all ministerial development permits.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of H.B. No. 2505, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2505, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.
Senator McMurdo did not concur.

SCRep. 2396 Housing and Hawaiian Programs on H.B. No. 2719

The purpose of this bill is to establish a two-year homeless assistance pilot project to provide financial incentives and assistance to private homeowners in the City and County of Honolulu who are interested in setting aside existing dwelling units, or constructing new or improving existing dwelling units, for rent by homeless families or individuals for a period of five years.

Your Committee finds that there is a critical need to provide shelter for the many homeless individuals and families in the City and County of Honolulu as the homeless population continues to grow at an alarming rate. This bill attempts to stimulate private homeowners to voluntarily become a part of the solution and avoids burdening any particular district or community with a sudden influx of homeless families by its limitations of five projects per census tract.

Your Committee has amended this bill by:

- (1) Deleting the requirements for chapter 91 rule-making because of the emergency nature of this Act, the drop-dead of two years for this Act, and because the coordinator should be given the discretion to adopt standards that are fair and consistent to everyone;
- (2) Clarifying that initial screening and follow up after placement procedures are required to determine the financial capabilities as well as the need for social services and referrals of potential tenants;
- (3) Placing the project under the jurisdiction of the Hawaii housing authority for administrative purposes;
- (4) Adding the appropriation and expending agency sections; and
- (5) Deleting much background and statistical information of Section 1 because a lengthy preamble and purpose section is not necessary since the necessity for establishing a homeless assistance project is well understood.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of H.B. No. 2719, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2719, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2397 Housing and Hawaiian Programs on H.B. No. 2911

The purpose of this bill, as received, is to appropriate \$700,000 to enable fifty-seven Hawaiian home lands lessees in Panaewa and Keaukaha in the County of Hawaii to build their own affordable homes through a self-help construction program.

The purpose of this bill, as amended, is to appropriate an unspecified amount of funds to cover administrative costs, to establish a contingency fund, and to finance low interest loans for the development of a self-help construction program on Hawaiian home lands in Panaewa and Keaukaha in the County of Hawaii.

Your Committee finds that without the means to finance home construction, the families participating in the self-help program at Keaukaha and Panaewa will not have the opportunity to purchase their own homes. Many families are unable to secure adequate financing because they have neither the income nor savings to qualify for such financing. This bill will assist the Department of Hawaiian Home Lands in its effort to provide affordable homes to its beneficiaries.

Accordingly, your Committee has amended this bill by:

1. Replacing the sum appropriated with a blank amount;
2. Deleting the provision that remaining funds shall be made available for self-help construction projects on Hawaiian home lands throughout the state; and
3. Replacing the provision that the funds appropriated shall be disbursed pursuant to a contract executed by the Department of Hawaiian Home Lands and the Hawaii County Economic Opportunity Council with a provision that the sum appropriated shall be disbursed by the Department of Hawaiian Home Lands to the Hawaii County Economic Opportunity Council.

It is the intent of this bill, as amended herein, to facilitate further discussion on the funding necessary to carry out the purposes of this measure.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of H.B. No. 2911, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2911, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2398 Housing and Hawaiian Programs on H.B. No. 2922

The purpose of this bill is to facilitate the provision of housing for native Hawaiians by appropriating funds for the construction of infrastructure improvements on Hawaiian home lands.

Your Committee finds that many residents of Hawaii, including native Hawaiians, are moving to the mainland because they are unable to afford housing in Hawaii. Native Hawaiian beneficiaries of the Hawaiian Homes Commission Act who were recently awarded Hawaiian home land on the island of Hawaii, many after decades of waiting, are still unable to build a home on their land until the basic infrastructure, utilities, and roads are constructed. Your Committee finds this bill is necessary to enable native Hawaiians to build homes on their homestead land which they have long awaited.

The bill appropriates \$25 million in capital improvement project moneys. This appropriation is part of the compensation package proposed by the Task Force on Department of Hawaiian Home Lands Land Title and Related Claims in its Interim Report to the Governor and the 1992 Hawaii State Legislature.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of H.B. No. 2922, H.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2399 Housing and Hawaiian Programs on H.B. No. 3095

The purpose of this bill is define public facility, repair, and routine maintenance for the purposes of Act 15, Session Laws of Hawaii 1988. The bill establishes that counties are required to accept public facilities constructed by the state and that Act 15 housing projects are deemed to conform to county standards for such projects. This bill establishes that counties shall be immune from civil liability and damages for certain actions relating to Act 15 housing projects.

It is the intent of this bill to reconcile Act 15 which provides exemptions for state affordable housing projects from county construction standards with the concerns of the counties relating to projects which have not been subjected to county review and approval. The bill clarifies that the standards of the state and county existing when the project is developed are the applicable standards, but if no county standards exist, HFDC can develop standards.

Your Committee finds that while affordable housing projects developed pursuant to Act 15 aid in providing much needed affordable housing to the residents of the state, concerns of the counties regarding their liability must be addressed.

Your Committee has amended this bill by:

- (1) Deleting the provision that the State shall indemnify the county for an express period of thirty years from the date of dedication of the public facility or project; and
- (2) Deleting the provision that the date of dedication shall be effective upon the filing with the county appropriate documents to convey the property interests;
- (3) Providing that final plans and specifications for projects consistent with the purpose of this bill be deemed to conform with the county's general plan and development or community* plan of the county in which the project is situated; and

- (4) Providing that the corporation shall give notice to the county that the project has been certified for development, that the plans and specifications meet the requirements of this bill, and that state and county agencies shall process and issue permits based on the corporation's certified final plans and specifications which are deemed to be in conformance with the general plan and development plan of the county and which shall constitute the applicable county standards for the project.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of H.B. No. 3095, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3095, H.D.2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2400 Housing and Hawaiian Programs on H.B. No. 3097

The purpose of this bill is to make low-income housing tax credits applicable to banks and financial institutions. Specifically, the bill provides lending institutions participating in the development of low-income housing projects with a state tax credit that they are ineligible for under current law.

This administration measure has received unanimous support from the Department of Taxation, the Housing Finance and Development Corporation, and the private sector.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of H.B. No. 3097, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2401 Housing and Hawaiian Programs on H.B. No. 3107

The purpose of this bill, as received, is to promote the increase of affordable housing production by providing a general excise tax exemption for all gross income received by qualified persons or firms involved with the planning, design, financing, construction, or sale of privately-sponsored affordable housing projects.

Your Committee finds that there is a shortage of affordable housing in Hawaii and that private developers must be encouraged to meet the affordable housing needs of Hawaii's residents.

Your Committee has amended the bill to define the term "actual construction" and to clarify the applicability of the exemption to projects which are unable to be completed by the December 31, 1994 deadline as a result of acts of god or circumstances over which the developer has no control. Your Committee has further amended the bill to provide that the bill amends Chapter 237, Hawaii Revised Statutes, by adding a new section to be appropriately designed. Nonsubstantive changes were made for the purposes of clarity and style.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of H.B. No. 3107, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3107, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2402 Housing and Hawaiian Programs on H.B. No. 3157

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

- (1) Disallow a deduction from gross income on an individual's income tax return for an amount paid into an Individual Housing Account (IHA) which is distributed within 365 days from the date on which the contribution was made to the IHA;
- (2) Clarify current statutory provisions that allow a husband and wife to deduct \$10,000 on a joint income tax return, if \$5,000 was deposited by each spouse in a taxable year; and
- (3) Clarify that the ten percent penalty applies to a person who sells the residential property during the ten year period subsequent to the purchase.

The purpose of this bill, as amended, is to further clarify provisions for individual housing account deductions under the income tax law.

Your Committee finds that the intent of the law was to allow individuals to build up savings towards the purchase of their first residence but individuals have been making short term deposits strictly for the benefit of the deduction. Even if the funds are actually used toward the purchase of a home, this practice constitutes an abuse of the legislatures intent to encourage actual savings. This bill operates to close that loophole.

Accordingly, your Committee has amended this bill with provisions to:

- (1) Clarify that a deduction from gross income is not to exceed \$10,000 for a married couple filing a joint return; and
- (2) Clarify that the "first principal residence" means a residential property purchased with individual housing account funds and which is owned and occupied as the only home of an individual or married couple who had no interest in a residential property within the last five years of opening the individual housing account.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of H.B. No. 3157, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3157, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2403 Housing and Hawaiian Programs on H.B. No. 3244

The purpose of this bill is to require the Hawaii Housing Authority (HHA) to provide youth activities coordinators for state housing projects under its jurisdiction containing fifty units or more for the development of appropriate activities for young project residents. The requirements would not be applicable to state housing projects for the elderly.

In the development of appropriate youth activities, the HHA will be required to consult with the Office of Children and Youth and the Office of Youth Services.

Your Committee finds that it is very important to provide coordinated recreational, sports, and other supervised programs for youths in locations such as public housing.

Your Committee has amended this bill by:

- (1) Deleting the authority of the director of finance to transfer \$187,000 from the homes revolving fund to the state general fund as repayment for moneys advanced under Section 201E-207, Hawaii Revised Statutes, and by leaving unspecified the amount of revenues to be appropriated for the purposes of this bill;
- (2) Giving the HHA the discretion by way of enabling legislation to authorize them to provide the coordinators rather than requiring them to do so;
- (3) Amending Section 2 of the bill to clarify that the HHA has the authority to act in the best interests of the residents in determining to provide programs for them. This is in recognition of the growing importance which these programs have in improving the life of the residents; and
- (4) Making technical non-substantive amendments.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of H.B. No. 3244, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3244, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2404 Housing and Hawaiian Programs on H.B. No. 3283

The purpose of this bill is to provide a general excise tax exemption on amounts received for common expenses by nonprofit homeowners or community associations.

It is the intent of this bill to provide the same exemption for a nonprofit homeowners or community association that is currently available to an association of apartment owners of a condominium property regime or cooperative housing corporation.

Your Committee finds that since fees for payment of common expenses of nonprofit homeowners' associations have the same purpose as fees for payment for common expenses in condominiums and cooperatives, a general excise tax exemption on such income for condominiums and cooperatives only is inequitable. This bill corrects that inequity.

The Department of Taxation testified that it is not opposed to this bill.

Your Committee has amended this bill by deleting Section 1 because a purpose section is not necessary inasmuch as the amendment is self-explanatory and is not opposed by the Department of Taxation. Technical amendments were made for clarity and style.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of H.B. No. 3283, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. no. 3283, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2405 (Majority) Housing and Hawaiian Programs on H.B. No. 3353

The purpose of this bill is to authorize the issuance of general revenue bonds in the amount of \$55,000,000, for the city and county of Honolulu to purchase the Queen Emma Gardens apartments complex.

Your Committee finds that purchase of the apartments is necessary to keep the rents affordable because the rent restrictions under the federal urban renewal program will expire in 1996. The rents have been steadily increasing since 1987 to where it approaches market prices, making it less affordable.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of H.B. No. 3353, H.D. 3, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.
Senator Fernandes Salling did not concur.

SCRep. 2406 Housing and Hawaiian Programs on H.B. No. 3558

The purpose of this bill is to require the Housing Finance and Development Corporation to report to the Legislature annually on all of its programs and funds.

Under current law, the Corporation is required to report generally on its activities for the preceding year and the status of moneys held in depositories other than the State treasury, and specifically on current and planned projects and expenditures relating to the Homes Revolving Fund.

Your Committee finds that the Corporation is presently responsible for administering ten different funds and their associated programs and projects, but required to report in detail only with regard to one of these funds and its related programs. Your Committee believes that the information now required concerning current and planned projects and expenditures relating to the Homes Revolving Fund should also be furnished with respect to all of the Corporation's programs and funds. This will ensure the ready availability of information necessary to proper execution of the Legislature's duty to oversee and direct the provision of affordable housing to the citizens of this State.

Your Committee has made several nonsubstantive technical amendments for the purposes of clarity and consistency.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of H.B. No. 3558, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3558, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2407 Housing and Hawaiian Programs on H.B. No. 3567

The purpose of this bill, as received, is to create an infrastructure development fund to provide grants to developers for infrastructure improvements for affordable housing construction.

The purpose of this bill, as amended, is to clarify the definition of "eligible borrower" and "eligible loan" in the Taxable Mortgage Securities Program and to clarify what portion of the rental assistance revolving fund may be used by the Housing Finance and Development Corporation (HFDC) to make payments under rental assistance contracts, rent subsidies, or construction financing. This bill also provides that proceeds of any bond issues may be included in the principal sum of the rental assistance revolving fund and authorizes the Director of Finance issue to HFDC a guarantee of the aggregate amount of assistance payments for the term of the rental assistance contract.

It is the intent of this bill to expand opportunities for development of affordable rental housing projects. This bill clarifies that a qualified sponsor of an affordable housing project is an eligible borrower who may receive an interim or permanent loan to finance development of an affordable housing project. Currently, loans are available only to individuals or families for the purchase of a housing unit.

It is also the intent of this bill to allow a more efficient use of Rental Assistance Program appropriations. Currently, HFDC is only allowed use of the interest from the rental assistance revolving fund. This bill allows HFDC to use the principal of the fund for rental assistance contracts, rent subsidies or for financing of an affordable rental project by a private developer.

Your Committee has amended this bill by substituting provisions to accomplish the foregoing.

Your Committee finds that there is a shortage of affordable housing in Hawaii and that development of affordable housing projects by private entities must be encouraged. This bill encourages private developers by making funds available for construction financing at below market rates.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of H.B. No. 3567, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3567, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2408 Housing and Hawaiian Programs on H.B. No. 3707

The purpose of this bill, as received, is to exempt from the conveyance tax income derived from the sale of:

- (1) The leased fee interest in a residential lot to a lessee; and
- (2) Part or all of the leased fee interest underlying a residential leasehold condominium project or cooperative housing project if the sale is to the lessees of the project or to the condominium association or cooperative housing corporation.

The purpose of this bill, as amended, is to establish a tax credit for state income tax purposes in the amount of fifty per cent of the federal capital gains tax paid on a resident individual's federal income tax return upon the conveyance of the above-described leased fee interests. The tax credit is to be prorated into ten equal amounts to be claimed over a ten year period and is transferrable by sale or gift.

Accordingly, your Committee has amended this bill by replacing its provisions for a conveyance tax exemption with provisions to:

- (1) Establish a state income tax credit in an amount equal to fifty percent of the amount of federal capital gains tax paid;
- (2) Establish that the tax credit shall be prorated and claimed in equal amounts over a ten year period, and transferrable by sale or gift.

It is the intent of this bill, as amended herein, to provide incentives for landowners to sell their leased fee interest in a residential lot or leasehold condominium project. Your Committee finds that a tax credit in the amount of one-half of the federal capital gains tax paid upon conveyance of a leased fee interest is more likely to provide an incentive for the sale of leasehold interests than a conveyance tax exemption which provides little financial savings to the landowner.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of H.B. No. 3707, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3707, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2409 (Majority) Tourism and Recreation on H.B. No. 3958

The purpose of this bill is to establish an Emergency Marketing Revolving Fund to protect Hawaii's economy, specifically the tourism industry, from sudden downturns arising from uncontrollable factors such as recessions, natural disasters, and wars.

Specifically, the bill:

- (1) Requires the Department of Business, Economic Development, and Tourism to develop criteria for use of the Fund;
- (2) Provides for appropriations into the Fund and requires each county to designate an unspecified percentage of its Transient Accommodations Tax (TAT) revenues to be expended for island destination marketing; and
- (3) Sets a \$6,000,000 cap on the Fund and appropriates \$1 for initial funding.

Upon further consideration, your Committee has amended the bill by deleting its substance and inserting new provisions enabling continued pursuit of a convention center on a broader basis.

Specifically, the bill, as amended:

- (1) Extends indefinitely the life of the Waikiki Convention Center Authority (renamed "Convention Center Authority") that is currently scheduled for repeal since a convention center plan has not been approved within three years of the initial empanelling of all of the members;
- (2) Establishes as a purpose of the Authority the recommendation of alternate sites to the Legislature, and repeals the International Market Place provisions;
- (3) Authorizes the Authority to issue revenue bonds in its own name up to \$250 million;
- (4) Replaces "private developer" with "developer" throughout Chapter 206X, Hawaii Revised Statutes, to permit private, governmental, or quasi-governmental entities to develop the facility;
- (5) Deletes language requiring the Legislature to designate a site for the convention center, designate a convention center district, and establish criteria for development within that district;
- (6) Deletes the requirement that the convention facility be developed and financed at no cost to the State;
- (7) Authorizes the Authority to manage, operate, and maintain the convention center facility but provides an option for the State to assume responsibility if the Authority deems it to be prudent;
- (8) Requires the developer to negotiate with the State for the transfer of a marketable real property interest in the convention center facility; and
- (9) Requires the developer to manage, operate, and maintain the convention center facility for a period to be negotiated between the Authority and the developer.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of H.B. No. 3958, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3958, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.
Senator McMurdo did not concur.

SCRep. 2410 Employment and Public Institutions on H.B. No. 2433

The purpose of this bill is to establish past performance as a criteria for determining the eligibility of a contractor to bid on a public works project.

The contracting officer will examine quality and timeliness of past performance and declare a prospective bidder's eligibility to compete for the project. A prospective bidder who has failed to meet quality specifications or time schedules on two or more projects in the previous two years, or quality requirements and the time schedule on a single project, shall be barred. Contractors who have been barred in the past two years by another state or county agency shall automatically be disqualified, and the officer who makes such decision shall notify other contracting agencies.

Your Committee finds that this bill will help ensure that only qualified contractors with acceptable track records are awarded key contracts affecting the general public.

Your Committee has amended this bill by adding a new section to Chapter 103, Hawaii Revised Statutes, requiring that preference be given to Hawaii taxpaying contractors over out-of-state contractors if their bids are not more than ten percent higher than the out-of-state competition. To qualify for the exemption, a contractor bidding \$5 million or less must have paid Hawaii taxes for five successive years prior to submitting the bid, and a contractor bidding more than \$5 million must have paid Hawaii taxes for the past ten years. Competition between two or more Hawaii taxpaying contractors will be decided on the basis of the lowest bid. These provisions will not apply if they would disqualify a particular project from federal funding. The purpose of this amendment is to acknowledge the substantial investment in overhead and taxes borne by an established company doing business in Hawaii that tends to place the company at a disadvantage when competing with a contractor for a public works project not subject to the high cost of doing continuous business in Hawaii. Your Committee finds that the high cost of doing and maintaining a business in this State, and the substantial contribution made by an established Hawaii taxpaying business, should be considered a tangible factor in awarding public works contracts.

This bill does not discriminate against foreign contractors because foreign contractors who have been doing business in Hawaii for the requisite periods of time will be able to take advantage of the ten percent handicap. Conversely, new Hawaii contractors who have not been burdened with the high cost of doing business in Hawaii will not be able to take advantage of this ten percent handicap.

Your Committee has also made several nonsubstantive technical amendments for the purposes of clarity and style.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of H.B. No. 2433, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2433, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Crozier.

SCRep. 2411 Employment and Public Institutions on H.B. No. 3488

The purpose of this bill is to enable the Board of Trustees of the Hawaii Public Employees Health Fund to select its own legal adviser.

Current law requires the Attorney General to be the legal adviser.

Your Committee finds that there may be a conflict of interest under the current law in that the Attorney General is appointed by the Governor and is also an employee-beneficiary of the Fund. This bill provides the means by which such conflict of interest, or the appearance of a conflict of interest, may be avoided.

Your Committee has amended this bill by providing that the Administrator of the Fund, currently subject to the civil service provisions of Chapters 76 and 77, Hawaii Revised Statutes, shall as of July 1, 1992 be civil service exempt and serve at the pleasure of the Board of Trustees with a salary in the EMO 8 range. The incumbent Administrator will continue to serve at the pleasure of the Board and may be appointed Administrator on an exempt basis.

Your Committee has also made nonsubstantive technical changes for the purposes of clarity and style.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of H.B. No. 3488, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3488, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Crozier.

SCRep. 2412 Employment and Public Institutions on H.B. No. 3658

The purpose of this bill is to prohibit construction of a war memorial in the vicinity of the State Capitol.

Your Committee finds that the Capitol grounds are a fitting location for a memorial to Hawaii's soldiers who gave their lives in the Korean and Vietnam conflicts and has therefore deleted the contents of this bill and provided for the following:

- (1) A war memorial to Hawaii's soldiers who gave their lives in the Korean or Vietnam conflicts to be constructed on the Ewa side of the Capitol lawn, among the trees and bordered on one side by an appropriate setback from the walkway to the covered stairs, on another by an appropriate setback from Beretania Street, and an appropriate setback from Richards Street. The memorial shall be designed by the Commission on War Memorials panel by September 30, 1992, or else the project will be assumed by the Department of Accounting and General Services. The memorial shall utilize natural assets of the location and be a meditation park with secluded areas of hedges

and trees. The walls shall be moderate in height. A blank appropriation is provided for DAGS to construct the edifice; and

- (2) Directions to the Department of Land and Natural Resources to solicit participation of all veterans' organizations in planning and designing the war memorial hall within the Aiea (Rainbow) Bay State Recreation Area as proposed in the Master Plan.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of H.B. No. 3658, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3658, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Crozier.

SCRep. 2413 Agriculture and Environmental Protection on H.B. No. 2366

The purpose of this bill is to re-establish the Molokai Irrigation System Water Users Advisory Board, which was terminated on June 6, 1991 under the sunset provision of Act 48, Session Laws of Hawaii 1990.

The bill would:

- (1) Restore the advisory board;
- (2) Specify the duties and responsibilities of the board; and
- (3) Provide an appropriation to carry out the purposes of the bill.

Testimony in support of the measure was submitted by the Department of Agriculture, the Department of Hawaiian Home Lands and the Molokai Farm Bureau Federation.

Your Committee has amended the bill by making technical changes that have no substantive effect.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of H.B. No. 2366, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2366, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Ikeda.

SCRep. 2414 Agriculture and Environmental Protection on H.B. No. 2387

The purpose of this bill is to appropriate \$150,000 to prevent the establishment of brown tree snakes in Hawaii.

According to information provided to your Committee, the brown tree snake has caused serious ecological and socioeconomic problems on Guam, ranging from hundreds of electrical power outages due to damaged lines, to the treatment of children for injuries caused by mildly venomous snake bites, to the extinction of nine species of native forest birds.

Moreover, your Committee has been informed that federal programs may be inadequate to prevent the brown tree snake from arriving in Hawaii.

The Department of Agriculture, the National Audubon Society, the Hawaiian Electric Company, Inc., and the Brown Tree Snake Control Group submitted testimony supporting the measure.

Your Committee has amended the bill by amending Section 150A-7, Hawaii Revised Statutes, to prohibit a vessel from remaining in or around the State if a brown tree snake is found near or on board the vessel.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of H.B. No. 2387, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2387, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Hagino.

SCRep. 2415 Agriculture and Environmental Protection on H.B. No. 788

The purpose of this bill is to enhance the ability of the Department of Agriculture to eradicate pests that threaten Hawaii's agriculture and environment by:

- (1) Clarifying the extent of a Department of Agriculture pest investigator's liability for damage caused by his or her acts;
- (2) Replacing the cumbersome injunctive relief provisions of existing law with an expeditious warrant procedure to deal with refusals to allow entry;
- (3) Requiring non-cooperating land owners or occupiers to pay for eradication programs conducted by the department on their premises; and
- (4) Providing penalty provisions for repeat offenders.

Your Committee received testimony in support of the bill from the Department of Agriculture, the Hawaii Farm Bureau Federation, the Hawaii Banana Industry Association, the Oahu Banana Growers Association, the Big Island Banana Growers Association, the Hawaii Papaya Industry Association, independent small farmers, the Sierra Club, and the National Audubon Society.

The testimony expressed concern that landowners or lessees are occasionally reluctant or even refuse to cooperate with the Department of Agriculture in connection with control and eradication measures. Particular concern was expressed regarding the consequences of the refusal by farmers to cooperate with the Department in its programs to control banana bunchy top disease on Oahu, and papaya ringspot virus on Hawaii.

Your Committee finds that providing the Department with quick means of securing legal authorization to enter property to investigate and control or eradicate pest infestations, and penalizing uncooperative landowners or lessees by assessing them with fines and/or the costs of pest control or eradication measures taken on their premises will enhance the enforcement of pest control programs.

Your Committee expressed concern that the Department's pest control actions may adversely affect small banana growers and that consideration should be given to providing them with assistance if large numbers of diseased banana plants are removed. Although it furnishes appropriate chemicals, some application equipment, manpower, and educational assistance in its control programs, the Department does not provide replacement planting material. The Hawaii Banana Industry Association assured your Committee, however, that it would make available planting materials at cost from neighbor island sources to assist affected growers.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of H.B. No. 788, H.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Hagino.

SCRep. 2416 Agriculture and Environmental Protection on H.B. No. 3084

The purpose of this bill is to make statutory revisions to Chapter 342L, Hawaii Revised Statutes, regarding Underground Storage Tank (UST) Management, for purposes of clarity, consistency, and equivalency with the federal UST law.

The bill also provides for the extension of the Underground Storage Tank Loan Fund for an additional year to January 1, 1994.

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

- (1) Adding a new section to Chapter 342L that requires the State to set aside a minimum of ten acres throughout the State for soil remediation farms;
- (2) Adding a new section to Chapter 342L that establishes the regulation of underground storage tank repair;
- (3) Adding the definition of "soil remediation farm" to Chapter 342L;
- (4) Conforming the proposed amendment to the definition of "owner" to the federal definition;
- (5) Amending Section 342L-36.5 to authorize the establishment and funding of soil remediation farms throughout the State to take effect on October 1, 1992; and
- (6) Changing the repeal date of Act 267, Session Laws of Hawaii 1991, from January 1, 1993, to October 1, 1992.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of H.B. No. 3084, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3084, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Ikeda.

SCRep. 2417 Health and Human Services on H.B. No. 3102

The purpose of this bill is to refine the provisions of Chapter 42D which governs the award of grants or subsidies, and execution of purchase of service contracts.

Your Committee finds that much time and effort has been spent on continuing dialogue to further the development of the grants, subsidies, and purchases of service law. Your Committee further finds that the law should be more responsive to the recipients of such awards, and especially the private providers who contract with the state to provide on-going services for health and human service clients. Your Committee, therefore, determines that the present law needs to be refined to provide: a coordinated planning process; private sector input and legislative involvement; a workable timetable for submission of proposals and execution of agreements; and sufficient funding and resources to support the administration of the process.

Your Committee has amended this bill by:

- (1) Retaining the awarding of grants under chapter 42D;

- (2) Adding a new section which requires that interest be paid on outstanding amounts owed to service providers who have not received timely payment from the contract agency;
- (3) Adjusting the membership of the advisory council to not less than thirteen and not more than twenty-five members representing service providers, legislators, state agency directors, and consumers;
- (4) Requiring the advisory council to study and review local and national models for administration of health and human services planning and funding;
- (5) Allowing that purchase of service contracts may be extended for ninety days if agreed upon by the agency and provider;
- (6) Requiring that the Request for Proposal solicitation, designation, and notification process be complete by December 16 of each year;
- (7) Providing for direct solicitation to the Legislature by requesting organizations not included in the budget submitted by the Governor;
- (8) Providing an appeals process for recipients of state grants, subsidies, or purchases of service contracts; and
- (9) Changing the effective date of this Act and Act 335, Session Laws of Hawaii 1991, to July 1, 1994.

Your Committee on Health and Human Services is in accord with the intent and purpose of H.B. No. 3102, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3102, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Yamasaki.

SCRep. 2418 Agriculture and Environmental Protection on H.B. No. 2683

The purpose of this bill is to:

- (1) Centralize environmental protection programs within one administrative unit;
- (2) Better enforce existing environmental statutes; and
- (3) Establish a process to improve coordination, communication, and conflict resolution with regard to environmental protection issues among various departments.

The bill proposes to accomplish these objectives through the establishment of a new Department of Environmental Protection.

The following agencies and organizations supported the bill: the Department of Health; the Office of State Planning; the State of Hawaii Environmental Council; a broad coalition of Hawaii environmental organizations; the Hawaii Audubon Society; the Hawaii Food Industry Association; the Hawaii Public Health Association; the Young Democrats of Hawaii; and the Conservation Council for Hawaii. The Land Use Research Foundation of Hawaii opposed the bill.

Your Committee has amended the bill to delete references to the specific programs which would be transferred to the Department of Environmental Protection. Rather, it is felt that the Governor's Task Force should be given additional time to fully consider the appropriateness of program transfers and to build consensus among the affected parties. Once that has occurred, a management team should be appointed by the Governor, so that the details of program transfers could be implemented and a full executive budget request could be prepared prior to the convening of the next legislative session.

Your Committee has further amended the bill by repealing the sunset provision of Act 293. The provision in the Act has resulted in some uncertainty as to the legislative intent behind the passage of Act 293. The repeal of the sunset provision should clarify the legislative intent that the Department of Environmental Protection is to take effect in 1994.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of H.B. No. 2683, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2683, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Hagino and Reed.

SCRep. 2419 Agriculture and Environmental Protection on H.B. No. 3838

The purpose of this bill is to require the Department of Health to establish permit fees to cover the direct and indirect costs of developing, supporting, and administering the clean water program and to establish a clean water special fund for the deposit of the permit fees.

Upon consideration, your Committee has deleted the contents of the bill and substituted provisions that will enable the Department to meet the requirements of the federal Clean Air Act Amendments of 1990.

Specifically, the bill would:

- (1) Provide for criminal penalties for violations of the State Clean Air Act;

- (2) Establish a small business assistance program to provide technical support and environmental compliance information;
- (3) Establish a compliance advisory council;
- (4) Establish a small business ombudsman for air pollution control;
- (5) Provide for judicial review of permit decisions for all participants in the public comment process;
- (6) Create a clean air special fund;
- (7) Authorize the Department of Health to establish permit fees to cover the costs of developing, supporting, and administering Clean Air Act permits; and
- (8) Limit regulated substances to those designated in rules to be adopted by the Department.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of H.B. No. 3838, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3838, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Hagino.

SCRep. 2420 Agriculture and Environmental Protection on H.B. No. 2597

The purpose of this bill is to raise the range of fines for intentionally importing a snake or prohibited animal into the State from \$1,000 to \$10,000 to \$2,500 to \$25,000.

Your Committee finds that, due to recent incidents in which numerous snakes and other prohibited animals have been seized, discovered, or surrendered, more severe penalties must be established in order to deter future attempts to import such animals into the State.

Upon further consideration, your Committee has strengthened the bill by inserting language that makes the disclosure of agricultural goods and animals mandatory for all crew members and passengers of vessels entering the State.

Your Committee has also amended the bill by reinstating the existing fine schedule and making the \$2,500 to \$25,000 fine range applicable to subsequent offenses only.

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

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of H.B. No. 2597, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2597, H.D. 2, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senator Ikeda.

SCRep. 2421 Housing and Hawaiian Programs on H.B. No. 3708

The purpose of this bill is to require a purchaser of a residential houselot within a development tract to be domiciled in the State of Hawaii and be an owner occupant of the residential structure on the leased land.

Currently, purchasers are able to declare an intent to reside in Hawaii to qualify to purchase the fee simple lands without actually becoming a resident of Hawaii or occupying the property purchased. Purchasers also are able to shelter ownership of other fee simple residential real property by placing that land in a land trust to qualify for a purchase under Chapter 516.

It is the intent of this bill to prevent abuses of the Land Reform Act by replacing the current requirement that a potential purchaser be a resident or have a bona fide intent to reside in Hawaii with the requirement that the purchaser be domiciled in Hawaii and actually occupy the property.

Your Committee finds that a more restrictive qualification to purchase real property is necessary to carry out the purpose and intent of the Land Reform Act.

Your Committee has amended this bill by substituting it with the provisions of S.B. 2861, S.D. 1. Your Committee has also made technical amendments to substitute the word "corporation" for the word "authority" to conform with previous amendments made to the chapter. The Housing Finance and Development Corporation testified that they prefer the Senate version.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of H.B. No. 3708, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3708, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 2422 Agriculture and Environmental Protection on H.B. No. 2518

The purpose of this bill is to:

- (1) Establish a Used Motor Vehicle Oil Recycling Fund to be administered by the Department of Health; and
- (2) Authorize the Director of Health to:
 - (a) Collect a deposit of not less than 50 cents per quart of oil from wholesalers;
 - (b) Remit a deposit of not less than 50 cents, plus an incentive of not less than 10 cents per quart, to an approved disposer receiving used oil; and
 - (c) Pay those who are approved to dispose used motor oil, a fee of 50 cents per quart.

In addition, this bill requires persons accepting used oil to refund not less than 50 cents for each quart of used oil turned in by an individual.

On further consideration, your Committee has amended the bill by:

- (1) Mandating the Department of Budget and Finance to administer the fund;
- (2) Providing that the amount of the various deposits be determined by Department of Health rules but not be less than 50 cents; and
- (3) Directing the Department to adopt rules to determine liability for any contamination of used motor oil with solvents or other substances which may occur during collection and handling.

Your Committee has also made nonsubstantive changes for style and clarity.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of H.B. No. 2518, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2518, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Hagino and Reed.

SCRep. 2423 Agriculture and Environmental Protection on H.B. No. 3073

The purpose of this bill is to authorize the Board of Agriculture to set, assess, and collect acreage assessments for irrigation projects.

The bill also sets forth the method and procedure for levying a real property lien for delinquent assessments, and specifies this type of lien's priority over all other liens, except for real property tax liens.

Testimony in support of the measure was submitted by the Department of Agriculture, the Department of Hawaiian Home Lands and the Molokai Farm Bureau Federation.

Your Committee finds that this authority is necessary to appropriately address contemporary concerns relating to agriculture, water, and the environment.

Your Committee has amended this bill by making technical, nonsubstantive amendments for the purposes of clarity, style, and conformance with recommended drafting technique.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of H.B. No. 3073, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3073, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Hagino and Reed.

SCRep. 2424 Agriculture and Environmental Protection on H.B. No. 3342

The purpose of this measure is to create a Nonpoint Source Pollution Management and Control Program in the Department of Health.

Testimony in favor of this measure was submitted by the Department of Health, the College of Tropical Agriculture and Human Resources, the U.H. Water Resources Research Center, the City and County of Honolulu, the United States Soil Conservation Service, Hawaii Chapter of the Soil & Water Conservation Society, and Hawaiian Sugar Planters' Association.

Your Committee finds that, while such a program is necessary and timely, it is premature to require such comprehensive provisions.

Therefore, your Committee has amended this bill by providing a purpose statement, deleting all provisions pertaining to enforcement and penalties, adding detailed requirements for use of the appropriations, deleting the appropriation amounts, and making the following additional changes:

1. Removing from the definition of "state waters" drainage ditches, canals, ponds, and reservoirs required as a part of an irrigation system and canals required as a part of a water pollution control system;

2. Amending the powers of the Director by mandating the Director to:
 - a. Reduce and mitigate, rather than prevent and abate, nonpoint source water pollution;
 - b. Facilitate the implementation of, rather than identify, best management practices, programs, and measures to control nonpoint source categories;
 - c. Provide funding for, rather than sponsor, projects to demonstrate the best available technology and best management practices for preventing and mitigating nonpoint source pollution; and
 - d. Provide funding for public initiative projects to encourage education and prevention measures for nonpoint source pollution; and
3. Deleting the mandate to perform actuarial studies on the effect and feasibility of assessing rates, tolls, fees, charges, penalties, or taxes on any other product or activity that carries the potential to contribute to the level of nonpoint source pollution in an area.

Your Committee has further amended this bill by deleting the Director's mandate to encourage nonpoint source pollution mitigation practices of:

- a. Areawide sewage treatment upgrading;
- b. Statewide stormwater system upgrading;
- c. Used oil recycling and proper household hazardous waste disposal;
- d. Proper pesticide and fertilizer application practices; and
- e. Soil erosion control and management practices.

Your Committee finds that encouraging these practices would best be done by the agency or counties which handle them.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of H.B. No. 3342, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3342, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Hagino and Reed.

SCRep. 2425 (Majority) Agriculture and Environmental Protection on H.B. No. 253

The purpose of this bill as stated is to remove the criminal offense of "cockfighting" from the Hawaii Penal Code and to place it within Chapter 142, Hawaii Revised Statutes, which relates to animals, brands, and fences.

Testimony both supporting and opposing the bill was received from numerous private citizens and organizations.

Your Committee finds that the bill, as currently drafted, creates an anomalous situation whereby it would remove from the penal code only the subsection which refers to those who are connected with the management or organization of a cockfight, while leaving in the penal code, the subsection which refers to those who merely participate at the cockfight.

Your Committee observes that there is a heightened sensitivity in the community towards issue of animal care and welfare and notes that the provisions of section 711-1109, if strictly construed, could arguably be applied to prohibit such activities as hunting, fishing, and other recreational activities involving animals. In anticipation of the potential criminal culpability of a much larger community, your Committee finds that classification of these offenses in Chapter 143, Hawaii Revised Statutes, is more appropriate.

Your Committee has therefore amended the bill to remove sections 711-1109, 711-1109.3 and 711-1110.5 from the penal code and to place them in Chapter 143 of the Hawaii Revised Statutes. These provisions are currently placed in Chapter 711 of the Hawaii Revised Statutes, which is entitled "Offenses Against Public Order." Inasmuch as the activities referred to in sections 711-1109 and 711-1109.3 generally occur in more isolated locations, your Committee finds their placement in Chapter 711 to be inconsistent with the other offenses listed in said chapter.

Placement of these offenses in Chapter 143 is more appropriate. While the criminal provision still remains, this chapter specifically encompasses the subject matter of animals, as opposed to offenses against public order.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of H.B. No. 253, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 253, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senator Reed.
Senator Ikeda did not concur.

SCRep. 2426 Culture, Arts and Historic Preservation on H.B. No. 2431

The purpose of this bill is to establish the Korean Celebration Executive Committee and the Ethnic Celebration Trust Fund for the planning and funding of the ninetieth anniversary of the arrival of the first Korean immigrants to Hawaii.

Your Committee finds that it is appropriate to recognize the ninetieth anniversary of the arrival of the first Koreans in Hawaii and to acknowledge their contributions to the rich multi-cultural heritage of Hawaii.

This bill has been amended by:

- (1) Changing the amount appropriated from \$50,000 to \$100,000 for fiscal year 1992-1993;
- (2) Increasing the number of members of the executive committee from fifteen to seventeen; and
- (3) Deleting the requirement that two members of the executive committee shall be representatives from state and county governments.

Your Committee on Culture, Arts and Historic Preservation is in accord with the intent and purpose of H.B. No. 2431, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2431, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Reed.

SCRep. 2427 Culture, Arts and Historic Preservation on H.B. No. 3071

The purpose of this bill is to establish a foundation grant program for the State Foundation on Culture and the Arts and to clarify the procedures for holding and disbursing grant funds.

Your Committee heard testimony on this measure and wishes to address the concerns raised in the hearing. First, the SFCA is working on a long term plan for a process whereby public input and opinions will be sought regarding grant allocation procedures. Second, an appeals process and a peer review are already provided for in the administrative rules. Third, the bill has been amended to provide for a sixty day grant payment period following execution of the contract. Fourth, the bill has been amended to delete the individual awards.

This bill will promote the furtherance of culture, arts, and the humanities by providing standards and procedures by which the SFCA would be authorized to disburse and allocate public funds for grants. These grants are important to the State because they help to enrich Hawaii's communities through activities and artistic endeavors which could not be sustained without legislative support.

Your Committee has amended this bill to provide that:

- (1) The description of the activity or program in each grant application shall be written or a video presentation;
- (2) The appeals process of Chapter 91, Hawaii Revised Statutes, will be available to any grant application;
- (3) Contracts shall be executed no later than ninety days after the project start date; and
- (4) The State Foundation on Culture and the Arts may establish written standards by which purchase of service contracts will be evaluated.

Technical, nonsubstantive amendments were made to comply with the Ramsayer format which do not change the substance of the bill. Your Committee has also amended this bill to delete the definitions for "Members of the foundation," because this term is not used. The definitions for "Nepotism" and "Perquisite" have been deleted because the definitions of these words are commonly understood.

Your Committee on Culture, Arts and Historic Preservation is in accord with the intent and purpose of H.B. No. 3071, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3071, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Reed.

SCRep. 2428 (Joint) Culture, Arts and Historic Preservation and Planning, Land and Water Use Management on H.B. No. 3983

The purpose of this bill is to expand the boundaries of the Diamond Head State Monument by including additional state lands as well as providing for the transfer of land from the City and County of Honolulu, and to control development within the boundaries of the monument.

Your Committee finds that Diamond Head is a recognized landmark of the State of Hawaii that should be preserved and restored to an open and semi-wilderness park to be used by local residents and visitors.

Your Committee has amended this bill to provide that:

1. The governor may withdraw certain lands within the boundaries of the Diamond Head State Monument which were set aside under executive orders; and

2. Upon withdrawal of the lands, the Department of Land and Natural Resources may execute leases of the lands with the Federal Aviation Administration and the Department of Defendant for terms until January 1, 2000.

Your Committees on Culture, Arts and Historic Preservation and Planning, Land and Water Use Management are in accord with the intent and purpose of H.B. No. 3983, H.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3983, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committees except Senator Reed.

SCRep. 2429 Transportation and Intergovernmental Relations on H.B. No. 2913

The purpose of this bill is to establish within the Judiciary a five-year pilot project intended to make more efficient the process by which minor traffic violations are handled.

The project will begin on July 1, 1994, following the formulation of a complete feasibility and implementation plan to be submitted by the Judiciary to the Legislature prior to the regular session of 1993.

Under the bill, upon receipt of a citation, a driver charged with one of these violations will be required to choose one of three options: (1) paying the fine indicated on the citation; (2) admitting the violation but requesting a hearing to present reasons for mitigation of the penalty; or (3) requesting an informal hearing to dispute the citation.

A driver who chooses to contest the citation will be given a hearing before a district judge at which, in virtually all cases, the description of the violation written on the citation by the citing police officer will constitute the only evidence of the wrongdoing alleged. Unless the court considers it necessary, the driver will not be able to compel the attendance of defense witnesses or to question the citing police officer concerning the charge. The preponderance of evidence standard will apply, but the rules of evidence will not. Testimony, argument, and the court's ruling, contrary to the practice in all other court proceedings, will not be preserved for the record. A driver who is dissatisfied with the court's determination may request a trial de novo at which the process will be repeated, but this time in accordance with the usual criminal procedures and rules.

Drivers found to be in violation will be subject to fines, civil penalties, terms of community service, the imposition of traffic points, license suspension and revocation, and the denial of vehicle registration as the court may deem appropriate.

Your Committee is keenly aware of the increasing demand on the district courts for adjudication of traffic-related offenses. Substantial testimony has been submitted by the State Judiciary and State and County Law Enforcement Offices about how our courts are overloaded and in dire need of relief.

As a result, your Committee believes there is merit to the proposal to provide for administrative determination of many offenses.

Your Committee, however, is concerned that the provision of administrative relief does not unnecessarily impair the right of an individual to obtain justice. It is not the intent of this bill that administrative efficiency should come at the expense of an individual's right to a fair hearing.

In reviewing the testimony submitted by many interest groups such as Hawaii's law enforcement community and the American Civil Liberties Union, your Committee notes the divergent views on philosophy, procedure and the kind of offenses that will be covered. Efforts to develop a consensus on this bill among the parties have not been successful. Your Committee notes, in particular, that the dialogue generated in the correspondence between the Office of the Attorney General and the American Civil Liberties Union has been particularly hostile, and your Committee is concerned that the furtherance of such dialogue can only be an impediment to successful passage of a bill this session.

It is your Committee's belief that such strident and adversarial positions are promoting a rush to judgment on this bill rather than a deliberate and reasonable approach to developing fair and even handed legislation.

For this reason, your Committee has reviewed past proposals on this issue and looks favorably on a proposal submitted to the Legislature by the Hawaii Judiciary in 1988. This proposal was formulated after years of study and represents the consensus of the Judiciary Branch, which will be responsible for administering this program and implementing the provisions of this bill.

Because of the effort made by the Hawaii Judiciary to examine these issues in a more deliberate and reasonable manner, your Committee believes that this 1988 proposal is both pillared on a solid legal foundation and addresses your Committee's desire to strike a proper balance between the need for this administrative program and the protection of an individual's right to a fair hearing.

Indeed, in your Committee's view, the administrative efficiency to be gained under the 1988 proposal, which removes the district courts from the hearing process entirely, is distinctly greater than that to be derived under the bill being considered. Moreover, the procedural safeguards built into the 1988 measure afford greater protection to the rights of our citizens. It is clear to your Committee, then, that the Judiciary's original proposal not only strikes the appropriate balance, but provides the greater overall benefit as well.

For these reasons, your Committee has amended the bill by deleting its contents and replacing them with substantive provisions modeled on the Judiciary's 1988 bill. Your Committee, however, has retained the requirement that the Judiciary, before implementation, formulate a plan for the program which will be reported to the Legislature prior to the 1993 session. The plan will include an assessment of the costs of the program, an issue with which your Committee is

greatly concerned. The facts and recommendations to be submitted to the Judiciary should provide the Legislature an opportunity to fulfill its oversight obligations in what your Committee hopes will be a rational and less hostile setting.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of H.B. No. 2913, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2913, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Aki, Nakasato and Yamasaki.

LCRep. 2430 Executive Appointments on Gov. Msg. No. 214

Recommending that the Senate consent to the nomination of ROBERT G. KLEIN for Associate Justice of the State Supreme Court, for a term of ten years, in accordance with the provisions of Article VI, Section 3, of the Hawaii State Constitution.

Signed by all members of the Committee.

LCRep. 2431 (Majority) Executive Appointments on Gov. Msg. No. 216

Recommending that the Senate consent to the nomination of CORINNE K.A. WATANABE for Associate Judge of the Intermediate Appellate Court, for a term of ten years, in accordance with the provisions of Article VI, Section 3, of the Hawaii State Constitution.

Signed by all members of the Committee except Senators Aki and Iwase.
Senator Reed did not concur.

LCRep. 2432 (Majority) Executive Appointments on Gov. Msg. No. 217

Recommending that the Senate consent to the nomination of KAREN N. BLONDIN for 15th Judge of the Circuit Court of the First Circuit, for a term of ten years, in accordance with the provisions of Article VI, Section 3, of the Hawaii State Constitution.

Signed by all members of the Committee except Senator Aki.
Senator George did not concur.

LCRep. 2433 Executive Appointments on Gov. Msg. Nos. 177, 180, 181, 182, 184, 186 and 187

Recommending that the Senate advise and consent to the nominations of the following:

LLOYD Y. KIMURA to the Board of Public Accountancy, term to expire June 30, 1996 (Gov. Msg. No. 177);

R. SEAN MCLAUGHLIN to the Cable Advisory Committee, term to expire June 30, 1996 (Gov. Msg. No. 180);

DAWN MARIE to the Board of Cosmetology, term to expire June 30, 1996 (Gov. Msg. No. 181);

MILTON M. FUJIUCHI, D.D.S., and T.S. KAWAKAMI-WONG, D.D.S., to the Board of Dental Examiners, terms to expire June 30, 1996 (Gov. Msg. No. 182);

RICHARD KUSUDA to the Elevator Mechanics Licensing Board, term to expire June 30, 1996 (Gov. Msg. No. 184);

EDWARD H. TENGAN to the Board of Dispensing Opticians, term to expire June 30, 1996 (Gov. Msg. No. 186); and

ALBERT BRUCE DENIS and MICHAEL T. MABERRY to the Board of Private Detectives and Guards, terms to expire June 30, 1996 (Gov. Msg. No. 187).

Signed by all members of the Committee.

LCRep. 2434 Executive Appointments on Gov. Msg. Nos. 178, 179, 183, 185, 188, 189 and 190

Recommending that the Senate advise and consent to the nominations of the following:

RYOJI NAMBA, Ph.D., to the Advisory Committee on Agricultural Products, term to expire June 30, 1996 (Gov. Msg. No. 178);

AVERY B. CHUMBLEY to the Board of Agriculture, term to expire June 30, 1996 (Gov. Msg. No. 179);

PATRICIA K. BRANDT to the Education Commission of the States, term to expire June 30, 1996 (Gov. Msg. No. 183);

JOHN IRVEN FORD and CHARLES P. STONE, Ph.D., to the Natural Area Reserves System Commission, terms to expire June 30, 1996 (Gov. Msg. No. 185);

ADLEEN T. ICHINOSE to the Radiologic Technology Board, term to expire June 30, 1996 (Gov. Msg. No. 188);

HIROSHI SAKAI and ROBERT S. TOYOFUKU to the Commission to Promote Uniform Legislation, terms to expire June 30, 1996 (Gov. Msg. No. 189); and

WALTER J. HAYES and JUDITH H. WOROBE to the Advisory Board on Veterans' Services, terms to expire June 30, 1996 (Gov. Msg. No. 190).

Signed by all members of the Committee.

LCRep. 2435 Executive Appointments on Gov. Msg. Nos. 200, 201, 207, 209, 210 and 211

Recommending that the Senate advise and consent to the nominations of the following:

PEGGY Y. OSHIRO to the Board of Acupuncture, term to expire June 30, 1993 (Gov. Msg. No. 200);

CHERYL A. NAKAMURA and MIKE M. HASHIMOTO, Ph.D., to the Board of Acupuncture, terms to expire June 30, 1994 (Gov. Msg. No. 200);

BIENVENIDO C. VILLAFLOR to the State Boxing Commission of Hawaii, term to expire June 30, 1996 (Gov. Msg. No. 201);

CATHERINE L. YOZA to the State Boxing Commission of Hawaii, term to expire June 30, 1993 (Gov. Msg. No. 201);

JUNE M. UYEHARA-ISONO and MARLIN SPIKE WERNER, Ph.D., to the Board of Hearing Aid Dealers and Fitters, terms to expire June 30, 1996 (Gov. Msg. No. 207);

MICHAEL L. TRAUB, N.D., to the Board of Examiners in Naturopathy, term to expire June 30, 1996 (Gov. Msg. No. 209);

DARRYL N. ING, MBA, GENEVIEVE L. KINNEY, PhD, COLLEEN ETSUKO MINAMI, RN, PHN, SYLVIA J. THOMASON, LPN, and JILLIAN INOUYE, PhD, to the State Board of Nursing, terms to expire June 30, 1995 (Gov. Msg. No. 210); and

THOMAS S. MERRILL, Ph.D., to the Board of Psychology, term to expire June 30, 1996 (Gov. Msg. No. 211).

Signed by all members of the Committee.

LCRep. 2436 Executive Appointments on Gov. Msg. Nos. 202, 203, 204, 205, 206, 208 and 212

Recommending that the Senate advise and consent to the nominations of the following:

DWANE BRENNEMAN and TOM POY to the Correctional Industries Advisory Committee, terms to expire June 30, 1994 (Gov. Msg. No. 202);

ELIZABETH M. ADAMS, M.D., and SHARON "SHAY" BINTLIFF, M.D., to the Drug Product Selection Board, terms to expire June 30, 1996 (Gov. Msg. No. 203);

RAY T. NISHIYAMA to the Governor's Agriculture Coordinating Committee, term to expire June 30, 1996 (Gov. Msg. No. 204);

PUANANI BURGESS and GERALD R. CYSEWSKI, Ph.D., to the Hawaii Aquaculture Advisory Council, terms to expire June 30, 1996 (Gov. Msg. No. 205);

ANDREA L. SIMPSON to the Board of Directors, Hawaii Strategic Development Corporation, term to expire June 30, 1994 (Gov. Msg. No. 206);

ARNOLD WONG and VIVIAN M. WILSON to the Board of Human Services, terms to expire June 30, 1996 (Gov. Msg. No. 208);

BYRON A. ELIASHOF, MD, and ALICE TALBOTT, RN, to the Reproductive Rights Protection Committee, terms to expire June 30, 1994 (Gov. Msg. No. 212);

WAYNELL K. HEE, MSW, WILLIAM FOUNT MCKENZIE, MD, and JOSEPHINE C. WOLL, RN, to the Reproductive Rights Protection Committee, terms to expire June 30, 1995 (Gov. Msg. No. 212); and

KENNETH KIPNIS, PhD, and KIMBERLY S. TOWLER, JD, to the Reproductive Rights Protection Committee, terms to expire June 30, 1996 (Gov. Msg. No. 212).

Signed by all members of the Committee.

SCRep. 2437 Science, Technology and Economic Development on S.R. No. 47

The purpose of this Resolution is to request the Public Utilities Commission (PUC) to hire a reliable certified public accounting firm that is knowledgeable in the field of telecommunications to conduct a detailed audit of all state-funded telecommunications systems and contracts, including all regulated and nonregulated telecommunications activities.

Your Committee heard testimony from representatives of the Department of Budget and Finance, the University of Hawaii, the Judiciary, GTE Hawaiian Tel, and others in the telecommunications industry. Much of the testimony presented to your Committee concerned the lease of GTE Hawaiian Tel's SELEX telephone system by the Department of

Budget and Finance, and whether the acquisition of a telephone system should have been submitted to competitive bidding or constituted a "sole source" acquisition that removed the contract from statutory competitive bidding requirements.

Your Committee is concerned both with the specific issue regarding the lease of the SELEX telephone system as well as the broader issue of the acquisition of telecommunications systems and services by the State.

First, your Committee is concerned that, upon the termination of the lease of the SELEX system in 1994, the State will be faced with the same issues regarding whether to implement its own PBX telephone system, as recommended by several earlier studies, or to once again lease GTE equipment and service. There is a need for an independent review of all relevant studies to determine the best course of action both to prevent the unnecessary expenditure of public funds and to ensure the acquisition or lease, as appropriate, of the most efficient and economical telecommunications system available.

Your Committee also believes that there is a need to look more closely into the financial dealings of GTE Hawaiian Tel and its subsidiaries, to examine existing rates and the profitability of GTE Hawaiian Tel, and to evaluate if a rate reduction is in order. In addition, an investigation should be conducted regarding GTE's true rates of return on investment that are essential to its intrastate, interstate, and international telecommunications services which are supposedly regulated. An inquiry should also be made into GTE's proposed future capital investment and how much of that investment will fall into the regulated industry.

Your Committee is further concerned that the lease of the SELEX telephone system from GTE, although having a relatively low initial cost, increased substantially through add-ons that may or may not have been accounted for at the time that the contract was entered into. Anecdotal testimony was also received that a subsequent significant increase in cost was a common occurrence in other contracts entered into between the State and other telecommunications providers as well. Your Committee believes that there is a need to ensure that contracts with these providers, once entered into, do not substantially increase in cost other than reasonable and foreseeable expenses necessary for the performance and implementation of the contract.

Finally, your Committee believes that there is a need to provide a long-term solution to the problems associated with the lack of uniform guidelines regarding the sole source exception to competitive bidding. That exception, contained in section 103-22, Hawaii Revised Statutes, provides generally that no expenditure of public money, where the sum to be expended is \$8,000 or more, shall be made except under contract let after public advertisement for sealed tenders, except "for other purposes which do not admit of competition." Your Committee feels that, due to the absence of uniform guidelines for the interpretation of this provision, the sole source exception has become the norm and competitive bidding regrettably has become the exception. Although various state departments may have already adopted their own procurement rules, these rules should be made uniform for all departments and agencies with respect to procurement and compliance, especially regarding the sole source exception. In addition, legislation should also be proposed that would increase competition in telecommunication services.

Your Committee has therefore amended the Resolution to provide that the audit include the following:

- (1) An examination and inquiry into financial dealings between GTE Hawaiian Tel, GTE regional telephone operating subsidiaries, and other GTE subsidiaries;
- (2) An examination of GTE's existing rates and profitability, and an evaluation if a rate reduction is in order;
- (3) An examination of true GTE Hawaiian Tel rates of return on investment that are essential to GTE's intrastate, interstate, and international telecommunications services which are purportedly regulated;
- (4) An inquiry into GTE's proposed future capital investment and how much of that investment will fall into the regulated industry;
- (5) A review of all relevant reports on the issue of whether the State should implement its own PBX telephone system, including the 1985 master plan by the Department of Accounting and General Services, so that the State may engage in the most appropriate course of action when the lease of the SELEX telephone system from GTE Hawaiian Tel expires in the year 1994;
- (6) A review of the contract to lease the SELEX system to determine the appropriateness of the increase in the cost of the implementation of that system after the execution of the initial contract, review all other current public contracts for the purchase or lease of telecommunications systems or services which entailed substantial cost increases to implement those contracts, and make recommendations to provide that cost increases are limited only to those that are reasonable and necessary;
- (7) A review of federal acquisitions laws and the laws of other states, as appropriate, and the proposal of a state procurement code analogous to the federal law, which should include but not be limited to provisions establishing a narrow sole source exception, contract performance review stating why a winning bidder was selected and maintaining that determination on file for public inspection, procedures for the contracting of consultant services with appropriate performance review, and related provisions to ensure the integrity of the state procurement process; and
- (8) A recommendation for proposed legislation to increase competition in telecommunication services.

Your Committee has also amended the Resolution to request the PUC to submit an interim report to the Legislature twenty days before the convening of the Regular Session of 1993, and submit a final audit and report, including proposed legislation, to the Legislature twenty days before the convening of the Regular Session of 1994.

Your Committee on Science, Technology and Economic Development concurs with the intent and purpose of S.R. No. 47, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 47, S.D. 1.

Signed by all members of the Committee.

SCRep. 2438 Science, Technology and Economic Development on S.C.R. No. 61

The purpose of this Concurrent Resolution is to request the Public Utilities Commission (PUC) to hire a reliable certified public accounting firm that is knowledgeable in the field of telecommunications to conduct a detailed audit of all state-funded telecommunications systems and contracts, including all regulated and nonregulated telecommunications activities.

Your Committee heard testimony from representatives of the Department of Budget and Finance, the University of Hawaii, the Judiciary, GTE Hawaiian Tel, and others in the telecommunications industry. Much of the testimony presented to your Committee concerned the lease of GTE Hawaiian Tel's SELEX telephone system by the Department of Budget and Finance, and whether the acquisition of a telephone system should have been submitted to competitive bidding or constituted a "sole source" acquisition that removed the contract from statutory competitive bidding requirements.

Your Committee is concerned both with the specific issue regarding the lease of the SELEX telephone system as well as the broader issue of the acquisition of telecommunications systems and services by the State.

First, your Committee is concerned that, upon the termination of the lease of the SELEX system in 1994, the State will be faced with the same issues regarding whether to implement its own PBX telephone system, as recommended by several earlier studies, or to once again lease GTE equipment and service. There is a need for an independent review of all relevant studies to determine the best course of action both to prevent the unnecessary expenditure of public funds and to ensure the acquisition or lease, as appropriate, of the most efficient and economical telecommunications system available.

Your Committee also believes that there is a need to look more closely into the financial dealings of GTE Hawaiian Tel and its subsidiaries, to examine existing rates and the profitability of GTE Hawaiian Tel, and to evaluate if a rate reduction is in order. In addition, an investigation should be conducted regarding GTE's true rates of return on investment that are essential to its intrastate, interstate, and international telecommunications services which are supposedly regulated. An inquiry should also be made into GTE's proposed future capital investment and how much of that investment will fall into the regulated industry.

Your Committee is further concerned that the lease of the SELEX telephone system from GTE, although having a relatively low initial cost, increased substantially through add-ons that may or may not have been accounted for at the time that the contract was entered into. Anecdotal testimony was also received that a subsequent significant increase in cost was a common occurrence in other contracts entered into between the State and other telecommunications providers as well. Your Committee believes that there is a need to ensure that contracts with these providers, once entered into, do not substantially increase in cost other than reasonable and foreseeable expenses necessary for the performance and implementation of the contract.

Finally, your Committee believes that there is a need to provide a long-term solution to the problems associated with the lack of uniform guidelines regarding the sole source exception to competitive bidding. That exception, contained in section 103-22, Hawaii Revised Statutes, provides generally that no expenditure of public money, where the sum to be expended is \$8,000 or more, shall be made except under contract let after public advertisement for sealed tenders, except "for other purposes which do not admit of competition." Your Committee feels that, due to the absence of uniform guidelines for the interpretation of this provision, the sole source exception has become the norm and competitive bidding regrettably has become the exception. Although various state departments may have already adopted their own procurement rules, these rules should be made uniform for all departments and agencies with respect to procurement and compliance, especially regarding the sole source exception. In addition, legislation should also be proposed that would increase competition in telecommunication services.

Your Committee has therefore amended the Concurrent Resolution to provide that the audit include the following:

- (1) An examination and inquiry into financial dealings between GTE Hawaiian Tel, GTE regional telephone operating subsidiaries, and other GTE subsidiaries;
- (2) An examination of GTE's existing rates and profitability, and an evaluation if a rate reduction is in order;
- (3) An examination of true GTE Hawaiian Tel rates of return on investment that are essential to GTE's intrastate, interstate, and international telecommunications services which are purportedly regulated;
- (4) An inquiry into GTE's proposed future capital investment and how much of that investment will fall into the regulated industry;
- (5) A review of all relevant reports on the issue of whether the State should implement its own PBX telephone system, including the 1985 master plan by the Department of Accounting and General Services, so that the State may engage in the most appropriate course of action when the lease of the SELEX telephone system from GTE Hawaiian Tel expires in the year 1994;
- (6) A review of the contract to lease the SELEX system to determine the appropriateness of the increase in the cost of the implementation of that system after the execution of the initial contract, review all other current public contracts for the purchase or lease of telecommunications systems or services which entailed substantial cost increases to implement those contracts, and make recommendations to provide that cost increases are limited only to those that are reasonable and necessary;

- (7) A review of federal acquisitions laws and the laws of other states, as appropriate, and the proposal of a state procurement code analagous to the federal law, which should include but not be limited to provisions establishing a narrow sole source exception, contract performance review stating why a winning bidder was selected and maintaining that determination on file for public inspection, procedures for the contracting of consultant services with appropriate performance review, and related provisions to ensure the integrity of the state procurement process; and
- (8) A recommendation for proposed legislation to increase competition in telecommunication services.

Your Committee has also amended the Concurrent Resolution to request the PUC to submit an interim report to the Legislature twenty days before the convening of the Regular Session of 1993, and submit a final audit and report, including proposed legislation, to the Legislature twenty days before the convening of the Regular Session of 1994.

Your Committee on Science, Technology and Economic Development concurs with the intent and purpose of S.C.R. No. 61, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 61, S.D. 1.

Signed by all members of the Committee.

SCRep. 2439 Agriculture and Environmental Protection on H.B. No. 974

The purposes of this bill are to:

- (1) Clarify language relating to the minimum sizes of fish by replacing general terminology with more appropriate terms;
- (2) Allow the Department of Land and Natural Resources (DLNR) to adopt administrative rules relating to the selling and serving of pond raised mullet, Kona crab, and lobsters during their respective closed seasons; and
- (3) Prohibit the taking of rocks to which marine life is attached unless done for commercial purposes and authorized by the DLNR.

Your Committee finds that during the 1991 Legislative Session, S.B. No. 1279, C.D. 1, A Bill For An Act Relating To Marine Resources, was passed to address these issues. However, in the past year, other concerns relating to marine resources have arisen, specifically in the area of the permissible size of fish caught in fishing nets and traps.

Therefore, your Committee has amended the bill by deleting the existing provisions and inserting provisions that reduce the mesh size of fishing traps from two inches long by one inch wide to one and three-quarter inches long by three-quarters of an inch wide.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of H.B. No. 974, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 974, H.D. 2, S.D. 1, and be recommitted to the Committee on Agriculture and Environmental Protection for further consideration.

Signed by all members of the Committee except Senators Ikeda and Solomon.

SCRep. 2440 Agriculture and Environmental Protection on H.B. No. 2081

The purpose of this bill is to consolidate the provisions of Chapter 422 relating to fish marketing into Chapter 421 relating to agricultural cooperative associations.

The purpose of this bill was accomplished last year with the passage of Act 100, Session Laws of Hawaii 1991; however, your Committee finds that recent concerns raised by aquaculture farmers about regulation of water quality in the growth of aquacultural products requires legislative attention. Accordingly, your Committee has amended this bill by deleting its substance and inserting new definitions of "monoculture" and "polyculture" to Section 328-1.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of H.B. No. 2081, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2081, H.D. 1, S.D. 1, and be recommitted to the Committee on Agriculture and Environmental Protection for further consideration.

Signed by all members of the Committee except Senators Ikeda and Solomon.

SCRep. 2441 Tourism and Recreation on H.B. No. 2385

The purpose of this bill is to amend the Hawaii Revised Statutes to provide a usable definition of a "hotel."

Your Committee received testimony in support of this measure from the Director of Governmental Affairs for GTE Hawaiian Tel, the Hawaii Hotel Association, Outrigger Hotels Hawaii, and Hilton Hotels Corporation.

Your Committee finds that the present definition of "hotel" is too vague and that the proposed definition which describes a "hotel" in terms of its basic functions and services would provide clarity and consistency.

Your Committee has amended the bill by changing "hotel" to "hotel/hotel-condo" to reflect recent developments with regard to condominiums operating as hotels, by changing "telephone service" to "telephone switchboard" for purposes of

clarity, by inserting payment of transient accommodations tax as an additional definitional qualification, and by making technical amendments that have no substantive effect.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of H.B. No. 2385, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2385, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2442 Tourism and Recreation on H.B. No. 2500

The purpose of this bill is to amend the definition of "thrill craft" by:

- (1) Deleting the definition limiting provision that "thrill craft" have an operational passenger carrying capacity of not more than the operator and one other person; and
- (2) Including the term "thrill craft" within the category of "personal watercraft" as provided for by the Personal Watercraft Industry Association.

Your Committee heard testimony in support of this measure from the Department of the Attorney General, the Department of Transportation, the Maui Hotel Association, and the West Maui Taxpayers Association.

Your Committee finds that the present definition of "thrill craft" is too narrow, enabling thrill craft manufacturers to circumvent existing legislation.

Your Committee has made a few technical amendments that have no substantive effect to conform the bill with recommended drafting techniques.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of H.B. No. 2500, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2500, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2443 Tourism and Recreation on H.B. No. 2780

The purpose of this bill is to require the Hawaii Tourism Marketing Council to meet quarterly, rather than semiannually, in order to better carry out its function of assisting in the direction of state tourism marketing.

Your Committee received testimony in support of this measure from the Department of Business, Economic Development, and Tourism.

Your Committee finds that changing market conditions of tourism in Hawaii require constant observation and quick, decisive action on the part of those directing the state marketing effort.

Your Committee has made technical, nonsubstantive amendments to the bill.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of H.B. No. 2780, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2780, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2444 Judiciary on H.B. No. 3943

The purpose of this bill is to amend sections 576D-7(d), 576E-14, and 580-47, Hawaii Revised Statutes, to provide that the establishment of child support guidelines may constitute a "change in circumstances" sufficient to warrant review of a previous child support order.

In support of the bill, the Hawaii County Corporation Counsel testified that, pursuant to its agreement with the Child Support Enforcement Agency, it is responsible for reviewing several thousand support enforcement cases, many of which have support orders obtained prior to October of 1986, when the child support guidelines were enacted. However, although the enactment of the guidelines has resulted in substantial changes in the individual amount ordered for child support, the present law does not provide for efficient modification of child support payments in these pre-guideline cases. This bill is intended to resolve this problem by allowing the movant in a family court or administrative action to obtain a hearing on the issue of child support payment modification upon alleging that the most recent order was obtained prior to the enactment of the child support guidelines.

There was no opposition to the bill. The Judiciary testified that it had no problem with the bill because other changes in circumstances can be expected in preguideline cases, which involve orders that are six or more years old.

Your Committee corrected a drafting error and made other technical, nonsubstantive amendments to the bill in conformance with Ramseyer format.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3943, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3943, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2445 Housing and Hawaiian Programs on H.B. No. 2319

The purpose of this bill is to provide that the Housing Finance and Development Corporation (HFDC) shall require the installation of solar water heating equipment at any residential development project constructed with state funds, located on state lands, or otherwise subsidized by the State.

Your Committee finds that solar water heating is particularly appropriate for use in Hawaii and that the use of solar energy for water heating would reduce the State's reliance on imported fuels.

Your Committee has amended this bill to delete percentage requirements of solar water heating equipment installation in residential development projects, to create an exemption for the installation of energy saving devices in projects developed by private nonprofit corporations, to delete the exemption for multi-unit buildings, to delete the requirement that the Department of Business, Economic Development and Tourism submit a report to the 1996 Legislature evaluating the cost and efficiency of solar water heating equipment installed by HFDC, and to delete the repeal of this bill on January 1, 1996.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of H.B. No. 2319, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2319, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Nakasato.

SCRep. 2446 Housing and Hawaiian Programs on H.B. No. 2496

The purpose of this bill is to conform real estate transactions law to the Federal Fair Housing Amendments Act of 1988, which protects the disabled from housing discrimination. The bill also contains a provision which would prohibit steering persons toward or away from a real estate transaction, and adds age as a protected group in a real estate transaction while still recognizing the special situation of housing designed for older persons.

Your Committee has amended this bill by:

- (1) Adding hanai relationships to the definition of "familial status";
- (2) Adding an exemption for illegal drug abuse to the definition of "Handicapped status";
- (3) Deleting definition of "Parental status";
- (4) Deleting all references to "age" as a protected class since federal law does not include it;
- (5) Deleting provision allowing a real estate broker to condition permission for modification of existing premises on a person's agreeing to restore, if applicable, the exterior of the premises to the pre-existing condition;
- (6) Replacing references to "dwellings" with "housing accommodations";
- (7) Including any organization or facility involved either directly or indirectly in real estate transactions in the prohibitions relating to discrimination in multiple listing services or real estate broker's organizations;
- (8) Exempting the rental of up to four rooms in a housing accommodation from section 515-4 if lessor resides in one of the housing accommodations;
- (9) Indicating that a religious institution may not discriminate in real property transactions if membership in the religion is restricted due to race, sex, color, marital status, familial status, ancestry, handicapped status, or HIV infection; and
- (10) Adding a provision to the enforcement section which allows the commission to issue a notice of right to sue upon written request of the complainant which must be exercised within ninety days of the receipt of the notice or one year after the filing of the complaint, whichever is later.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of H.B. No. 2496, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2496, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Nakasato.

SCRep. 2447 Housing and Hawaiian Programs on H.B. No. 3041

The purpose of this bill is to clarify that section 3 of the Act of July 9, 1952 (66 Stat. 511, 512) provides that the Hawaiian blood requirements do not apply to certain successors of lessees of Hawaiian homes lands.

It is the intent of this bill to include the proper citation which was inadvertently omitted upon passage of Act 150, SLH 1990.

Your Committee has made technical amendments for the purposes of clarity and style which do not affect the substance of the bill.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of H.B. No. 3041, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3041, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Nakasato.

SCRep. 2448 Housing and Hawaiian Programs on H.B. No. 3096

The purpose of this bill is to implement recommendations made by the U. S. Department of Housing and Urban Development (HUD) and Federal National Mortgage Associations (FNMA) to the Housing Finance and Development Corporation (HFDC) relating to HFDC restrictions imposed on dwelling units developed by HFDC. Currently, certain restrictions are unacceptable to HUD and FNMA.

The bill addresses concerns raised by the U. S. Department of Housing and Urban Development by clarifying:

- (1) The definition of "qualified resident";
- (2) That a purchaser shall pay to the HFDC its share of appreciation in the dwelling unit when applicable;
- (3) Repurchase and occupancy restrictions are extinguished upon certain transfers of title;
- (4) Restrictions terminate in subsequent transfers when HFDC releases the option to purchase a unit under a federally-subsidized mortgage;
- (5) Certain owner-occupancy and repurchase restrictions are not applicable to purchases made before June 25, 1990; and
- (6) HFDC's right to repurchase is not effective during the required owner-occupancy period.

Your Committee has amended this bill to provide that:

- (1) The amended definition of "qualified resident" applies to a renter, in addition to a home buyer;
- (2) The provision that a sale ten years after the purchase of the real property may be to "any qualified resident" is deleted since HUD finds that such a restriction hinders the ability of a seller to sell the real property quickly;
- (3) HFDC may waive restrictions to comply with or conform to requirements governing mortgage insurance or guarantee programs, in addition to requirements of federally chartered secondary mortgage market participants;
- (4) HFDC has the right to repair or repurchase vacant land which has a substantial soil defect; and
- (5) "Substantial soil defect" is defined.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of H.B. No. 3096, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3096, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Nakasato.

SCRep. 2449 (Joint) Education and Transportation and Intergovernmental Relations on H.B. No. 2309

The purpose of this bill is to provide an exemption to private schools for the use of non-regulation school buses when it is impossible or impractical to use school buses.

This bill will extend to private schools the same exemption that is currently provided to public schools.

Your Committees on Education and Transportation and Intergovernmental Relations are in accord with the intent and purpose of H.B. No. 2309, H.D. 2, and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Senator Nakasato.

SCRep. 2450 Education on H.B. No. 2784

The purpose of this bill is to exempt government agencies that construct, renovate, or repair school facilities from county requirements for off-site improvements.

Your Committee finds that an exemption from county requirements for off-site improvements will allow needed school construction and repair projects to proceed in a more expeditious and cost efficient manner.

Your Committee has amended the bill by making technical, non-substantive amendments.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 2784, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2784, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2451 Culture, Arts and Historic Preservation on H.B. No. 3794

The purpose of this bill, as received, is to clarify that the State of Hawaii will commence condemnation proceedings of a private property listed in the Hawaii Register of Historic Places only in the event that the Department of Land and Natural Resources (DLNR) and the property owner do not agree upon an appropriate course of action after the property owner notifies the DLNR of proposed construction, alteration, disposition or improvement of an historic property. It also provides that the DLNR may coordinate with the property owner the documentation of historical information.

It is the intent of this bill, as amended, to clarify the present law regarding condemnation of historic property to reflect the established practice of the DLNR.

Your Committee has amended this bill to provide that:

1. A "Burial site" includes its immediate surrounding archaeological context;
2. Violators of section 6E-11(b) are subject to prosecution pursuant to section 711-1107, in addition to penalties imposed under this section; and
3. A burial council's determination whether a site shall be preserved in place or relocated shall be rendered within forty-five days unless otherwise extended by agreement between the DLNR and the landowner.

It is the intent of this bill, as amended, to facilitate preservation of burial sites as historic property.

Your Committee on Culture, Arts and Historic Preservation is in accord with the intent and purpose of H.B. No. 3794, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3794, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2452 Judiciary on H.B. No. 2352

The purpose of this bill is to expand the scope of section 707-716 of the Hawaii Penal Code, which pertains to first degree terroristic threatening, to include employees of private schools.

Section 707-716, Hawaii Revised Statutes, makes it a class C felony to make (1) repeated threats against the same person or persons for the same reasons, (2) threats as part of a common scheme against different persons, (3) threats against a public servant, which includes a public educational worker, or (4) threats with the use of a dangerous weapon. This bill will expand the scope of the statute to include threats against University of Hawaii and private school personnel.

Your Committee received testimony in support of the bill from the Department of Education, the University of Hawaii, Hawaii Pacific University, Hawaii Association of Independent Schools, a private individual, a faculty member from Brigham Young University, Hawaii Campus, and the principal of Saint Joseph School on the Big Island.

These proponents testified that private school teachers and personnel are faced with the same risks as their public counterparts and therefore deserve similar protection. They also cited instances of assaultive behavior that have occurred on private campuses.

If the statute is expanded to include one group from the private sector, based on the analogy to a counterpart group in the public sector, the door is opened for other groups to propose or offer similar analogies. Your Committee finds that the private/public analogy urged by the proponents can be applied very widely. Since government secretaries are covered, should nongovernmental secretaries also be included? Since the prosecutors, deputy attorney generals and public defenders are included, should all attorneys be included? If the intention of the bill were to include such private groups, the more logical approach would be to eliminate the different degrees of terroristic threatening, since it will be difficult to otherwise draw the line.

Without more information, however, your Committee is unwilling to expand the scope of the statute absent a clear record establishing that a particular group is subject to enhanced risk so as to justify enhanced penalties. Moreover, your Committee notes that the examples of incidents on private campuses presented in the testimony on this bill were clearly outside the scope of the terroristic threatening sections of the penal code and therefore not relevant to this bill. Supporters of the bill were unable to provide any data or statistics that suggest the existence of an enhanced risk for private school faculty.

Because this bill is becoming a perennial (see H.B. 153, H.D. 1), your Committee is willing to keep this vehicle alive for further discussion with the House. Your Committee, however, deleted the substance of the House draft.

Your Committee also amended the bill to address the misconception that the current law singles out public educational workers for preferential treatment. During last year's hearing on H.B. 153, H.D.1, your Committee heard oral testimony

from government agencies that section 707-716(1)(c) applied exclusively to threats against public school personnel -- an interpretation that is contrary to the clear language of the statute.

Section 707-716(1)(c) provides in pertinent part:

- "(1) A person commits the offense of terroristic threatening in the first degree if he commits terroristic threatening...
(c) Against a public servant, including but not limited to an educational worker...." (emphasis added)

The phrase "including but not limited to" indicates that the provision is intended to be inclusive and not exclusive. The intent of that provision is to protect public servants, of which public school personnel is a subcategory. Your Committee amended the bill by deleting all references in the current statute to educational workers, since public school personnel are already included within the definition of "public servant."

Your Committee also amended the bill to clarify that the enhanced penalty only applies when a person commits the offense against a public servant, as defined in section 710-1000, Hawaii Revised Statutes, in response to acts or refusals to act which were within the scope of employment or official duties of the public servant. Thus, if the conduct of the defendant had no relationship to the public servant's employment or duties, the enhanced penalty would not apply even if the defendant's conduct occurred during normal business hours and on the premises of the public servant's workplace or over a public servant's telephone. By the same logic, if there was a relationship to the public servant's employment or duties, the enhanced penalty would apply even if the conduct occurred after normal business hours and away from the public servant's workplace.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2352, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2352, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cobb and Tungpalan.

SCRep. 2453 Judiciary on H.B. No. 3003

The purpose of this bill is to authorize the immediate extradition of a properly identified fugitive who has signed a prior waiver of extradition.

Your Committee received supporting testimony from the Judiciary, the Department of the Attorney General and the Honolulu Department of the Prosecuting Attorney.

According to the proponents, formal extradition proceedings are currently being used to return absconding parolees, probationers and bailees to the demanding state at great expense. This bill is intended to eliminate the need for such formal proceedings in those instances where a fugitive has signed a prior waiver of extradition and can be properly identified by photographs and fingerprints, thereby resulting in significant savings of court and law enforcement resources.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3003 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Tungpalan.

SCRep. 2454 Judiciary on H.B. No. 3950

The purpose of this bill is to statutorily establish a plan for certifying an attorney as a "board certified specialist" in certain areas of law. This bill is intended to improve the quality of legal services and assist the public in choosing competent legal counsel.

This bill was gutted in order to address the issue of public access to information on attorney discipline proceedings. Your Committee believes that both the public and the legal profession will be better served by more openness in attorney discipline proceedings. The public will be better educated on the professional and ethical standards required of attorneys and better able to select attorneys. The legal profession will benefit from increased public confidence. Consistent with these purposes and with the Senate's position, as embodied in S.B. 1166, S.D. 2, and S.B. 2330, S.D. 1, your Committee amended provisions of the Uniform Information Practices Act to require greater openness in the attorney discipline process of the Judiciary.

In connection with a bill previously heard in your Committee on the issue (S.B. 2330), testimony was received in support of increased openness in the attorney discipline proceedings from Paul Alston, Esq. Mr. Alston is the immediate past president of the Hawaii State Bar Association and has served, for the past several years, as a chairperson of a hearing panel for the Office of Disciplinary Counsel of the Supreme Court.

Mr. Alston pointed out that the American Bar Association, after great study, recommended that discipline proceedings against attorneys be public from the filing of a complaint through the final ruling.

Mr. Alston, speaking as an individual, opined that:

"If lawyers are to have the responsibility for professional self-regulation, they must recognize that the disciplinary process cannot be secret. The public must have access to information about the process and its results. This means, I suggest, that every bona fide complaint--and every disciplinary proceeding--should be open to the public. There is no good reason to disclose the existence of claims which the Office of Disciplinary Counsel finds are groundless or malicious, but once a finding of probable cause is made, and once the proceedings start, both the integrity of our profession and the public interest demand that the process should be open to scrutiny."

Mr. Alston urged the Committee to provide public disclosure of all ethics complaints which are supported by probable cause and that all discipline proceedings, to the final ruling, be open to the public.

Your Committee expressed its concurrence with Mr. Alston in drafting the language that was inserted in section 92F-12, as a new paragraph (17).

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3950, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3950, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cobb and Tungpalan.

SCRep. 2455 Employment and Public Institutions on S.R. No. 80

The purpose of this Resolution is to request the Legislative Reference Bureau to study and report on the feasibility of implementing "phased retirement" in the public service.

The Bureau would consult with the Personnel and Finance Directors of the State and counties, representatives of the Judiciary, the Employees' Retirement System, and the Public Employees Health Fund, and the exclusive representatives of Bargaining Units (1) through (13), and report findings and recommendations to the 1993 Legislature.

Phased retirement would allow persons nearing retirement age to phase out their careers, moving from full-time to part-time work without jeopardizing their retirement benefits. This concept was identified as a priority by the Civil Service Reform Conference.

Your Committee finds that phased retirement may present an appropriate means of accommodating the changing expectations of the public work force and help make public employment more attractive to qualified job-seekers.

Your Committee on Employment and Public Institutions concurs with the intent and purpose of S.R. No. 80 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2456 Employment and Public Institutions on S.C.R. No. 101

The purpose of this Concurrent Resolution is to request the Legislative Reference Bureau to study and report on the feasibility of implementing "phased retirement" in the public service.

The Bureau would consult with the Personnel and Finance Directors of the State and counties, representatives of the Judiciary, the Employees' Retirement System, and the Public Employees Health Fund, and the exclusive representatives of Bargaining Units (1) through (13), and report findings and recommendations to the 1993 Legislature.

Phased retirement would allow persons nearing retirement age to phase out their careers, moving from full-time to part-time work without jeopardizing their retirement benefits. This concept was identified as a priority by the Civil Service Reform Conference.

Your Committee finds that phased retirement may present an appropriate means of accommodating the changing expectations of the public work force and help make public employment more attractive to qualified job-seekers.

Your Committee on Employment and Public Institutions concurs with the intent and purpose of S.C.R. No. 101 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2457 Employment and Public Institutions on S.C.R. No. 134

The purpose of this Concurrent Resolution is to request the Department of Labor and Industrial Relations, in consultation with the University of Hawaii and the Departments of Health, Human Services, and Personnel Services, to study and report on the need for comprehensive training for bilingual and multilingual community workers who help Hawaii's immigrants and refugees obtain needed health and social services.

The study would begin where the report published in response to H.C.R. No. 30-91 left off and would include an assessment of agencies currently providing bilingual community workers, their training needs, and the efficacy of establishing certificate or degree programs in bilingual/multilingual community work.

Most of the bilingual and multilingual community workers providing services to Hawaii's non-English or limited English speaking newcomers are employees of private agencies, and their ability to meet the needs of this population in an efficient and organized manner is critical to the assimilation of these people into American and Hawaiian culture. Your Committee finds that the complexity of the task, combined with the responsibility of the State to ensure provision of needed health and human services regardless of the ability of the client to speak English, renders an in-depth analysis of current capabilities and future needs in this area an issue of compelling public interest.

Your Committee has amended this Concurrent Resolution by generally rewriting the "BE IT RESOLVED" and most of the "BE IT FURTHER RESOLVED" clauses for the purpose of clarity. In so doing, your Committee has added some

details that are consistent with the Concurrent Resolution as received and will help the Director and other participants focus more precisely on the areas that require assessment.

Your Committee has also amended the title of this Concurrent Resolution to reflect the above changes and made several other nonsubstantive technical changes for further clarification.

Your Committee on Employment and Public Institutions concurs with the intent and purpose of S.C.R. No. 134, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 134, S.D. 1.

Signed by all members of the Committee.

SCRep. 2458 Health and Human Services on S.C.R. No. 16

The purpose of this concurrent resolution is to recognize the contributions of the health care community and designate September 1992 as "Health Care Team Month".

Your Committee finds that health care professionals serve our community through their commitment to preserving life, promoting health, and improving the overall quality of life. Your Committee further finds that these professionals comprise a health care team of physicians, nurses, paramedics, dentists, health educators, and other allied health workers who should be recognized throughout the community for their many contributions. Testimony in support of this concurrent resolution was received from the Department of Health.

Your Committee on Health and Human Services concurs with the intent and purpose of S.C.R. No. 16 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 2459 (Majority) Health and Human Services on S.C.R. No. 18

The purpose of this concurrent resolution is to support the availability of mifepristone, known as RU-486, for research and clinical trials in the United States.

Your Committee finds that mifepristone, RU-486, has been shown to be a safe and effective non-invasive way to prevent the continuation of pregnancy. Testimony submitted by various sources in support of this concurrent resolution indicates that since 1988, RU-486 has been approved for administration in France, with a 95 percent effectiveness rate when used in early pregnancy. RU-486 is also believed to be effective in the treatment of breast cancer and other lymphomas, Cushing's syndrome, glaucoma, and infertility. Your Committee further finds that clinical trials of this drug are occurring in many countries, including Italy, India, Singapore, Great Britain, Sweden, the Netherlands, and Hong Kong.

Your Committee on Health and Human Services concurs with the intent and purpose of S.C.R. No. 18 and recommends its adoption.

Signed by all members of the Committee.
Senator Koki did not concur.

SCRep. 2460 Health and Human Services on S.C.R. No. 36

The purpose of this concurrent resolution is to request the Legislative Auditor to investigate alternatives to existing welfare programs.

Your Committee finds that the most vulnerable sector of our population, the welfare poor and the working poor, are now facing reductions in benefits due to economic conditions which dictate cutbacks in national and state financial assistance programs. Your Committee further finds that in order to ward off these cutbacks which will send many families deeper into the spiral of poverty, alternatives to the existing financial assistance programs must be found. Testimony received from the Committee on Welfare Concerns indicates that the recent programs adopted in Hawaii to help families become independent of government assistance have not met with much success and alternative programs which remove disincentives to work and support poor single parents should be examined.

Your Committee has amended this concurrent resolution, both its title and substance, to request that the Legislative Reference Bureau (LRB), rather than the Legislative Auditor, conduct this study. The LRB is also requested to study the welfare systems in other states which have undertaken reform measures and their results. Technical amendments were also made for the purposes of clarity and style.

Your Committee on Health and Human Services concurs with the intent and purpose of S.C.R. No. 36, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 36, S.D. 1.

Signed by all members of the Committee.

SCRep. 2461 Transportation and Intergovernmental Relations on H.B. No. 2455

The purpose of this bill, as received, is to require the gas station that issued the original inspection sticker to replace it if it is lost, stolen, or destroyed.

Your Committee has deleted the substance of the bill and replaced it with language to require certificates of inspection for motor vehicles that must be inspected biannually under Section 286-26, Hawaii Revised Statutes, to contain specifically enumerated insurance information.

The bill, as amended, would identify the number of uninsured motor vehicles which would help to enforce the mandatory no-fault insurance law.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of H.B. No. 2455, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2455, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Nakasato.

SCRep. 2462 Health and Human Services on H.B. No. 2835

The purpose of this bill is to establish a primary health care incentive program to assess the primary health care needs of medically underserved populations in Hawaii and to develop incentives to address those needs.

Your Committee finds that there is a critical need for primary healthcare practitioners throughout Hawaii and especially in rural areas of the State. Your Committee further finds that programs such as primary care training and family practice residency offered through the medical school, tuition waivers and other financial incentives, should be explored to encourage more students and healthcare practitioners to consider family practice in rural areas. Testimony in support of this measure was received by the Department of Health which indicated that this program could be administered without additional resources or staff.

Your Committee on Health and Human Services is in accord with the intent and purpose of H.B. No. 2835, H.D. 2, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2463 Health and Human Services on H.B. No. 2902

The purpose of this bill is to establish a permanent needle exchange program and allow the Director of Health to terminate the program if it no longer serves its intended purpose or poses a threat to public health and safety.

Your Committee finds that the needle exchange program is intended to reduce the transmission of HIV by reducing the availability of contaminated needle and syringe units through a one-to-one exchange of used units for sterile units. Your Committee further finds that this program provides a vital link with intravenous drug users by allowing routine contact with a public health worker who can provide education about HIV risks and make referrals to medical and social service agencies.

Your Committee received testimony in support of this bill from the Department of Health, the Sterile Needle Exchange Oversight Committee, the Governor's Committee on AIDS, and many social service agencies which are active in education about and treatment of HIV.

Your Committee has amended this bill by:

- (1) Requiring the Department of Health to submit in its annual budget testimony, estimates for funding to provide substance abuse treatment, referral, and counseling services for needle exchange program participants who request such services;
- (2) Indicating that the oversight committee is to provide assistance and advice in the "operation" of the program rather than the "oversight" of the program;
- (3) Requiring that the committee include representatives from all islands in which the program is operating; and
- (4) Changing the effective date to upon approval.

Your Committee on Health and Human Services is in accord with the intent and purpose of H.B. No. 2902, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2902, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Mizuguchi and Koki.

SCRep. 2464 Health and Human Services on H.B. No. 2994

The purpose of this bill is to allow an applicant sixty days in which to apply for funeral payment benefits on behalf of a deceased medical or financial assistance recipient.

Your Committee finds that presently the Department of Human Services allows thirty days in which to make an application for funeral payments. Testimony received from the Department indicated that they do not object to this extension.

Your Committee on Health and Human Services is in accord with the intent and purpose of H.B. No. 2994, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2465 Health and Human Services on H.B. No. 3617

The purpose of this bill is to require the Department of Health to establish standards and training for dispatchers in the emergency medical services system and maintain a quality assurance program for dispatch equipment.

Your Committee finds that emergency medical services dispatchers are part of the state's Comprehensive Emergency Medical Services System, and training is important to ensure that quality services are available statewide. Your Committee further finds that the Department of Health has received a federal grant from the National Highway Traffic Safety Administration to establish this training program.

Your Committee has made amendments to the wording or punctuation for precision and conformity to existing statutory language for that part in the Hawaii Revised Statutes.

Your Committee on Health and Human Services is in accord with the intent and purpose of H.B. No. 3617, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3617, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2466 Health and Human Services on H.B. No. 3673

The purpose of this bill is to mandate designated non-smoking areas within the dining rooms of all cruise ships.

Your Committee finds that the comfort and health of non-smoking passengers who dine aboard cruise ships should receive the same consideration under the law as patrons who dine in other public places. Your Committee further finds that voluntary compliance by most cruise ship companies with the smoking in public places law has not occurred and including them in the law will provide the necessary mandate.

Your Committee has amended this bill to clarify the definition of "restaurants" within the smoking in public places law.

Your Committee on Health and Human Services is in accord with the intent and purpose of H.B. No. 3673, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3673, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2467 Health and Human Services on H.B. No. 3898

The purpose of this bill is to allow the Department of Human Services to impose minimum health and safety requirements mandated by federal law on child care providers that are exempt from state licensure.

Your Committee finds that a number of child care programs and arrangements are exempt from state licensure laws. Your Committee further finds that in order for Hawaii's low-income parents to use their federally funded child care subsidies, their child care providers must meet federally mandated minimum health and safety standards. Testimony in support of this measure was received by the Office of Children and Youth, which is the lead state agency administering the federal child care subsidies.

Your Committee has amended this bill by clarifying that these minimum requirements shall apply to any group providing child care which is reimbursed with federal funds.

Your Committee on Health and Human Services is in accord with the intent and purpose of H.B. No. 3898, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3898, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2468 Housing and Hawaiian Programs on H.B. No. 2409

The purpose of this bill is to formally authorize and encourage the use of macrons and glottal stops whenever the Hawaiian language is used in state or county documents.

Your Committee finds that the Hawaiian language plays an important role in the preservation of the Hawaiian culture. This bill would bring status and honor to the language of the State's indigenous people.

Your Committee has amended the bill to provide that:

1. The Hawaiian language shall be recognized, along with English, as an official language of the State, and
2. Statutes, ordinances, rules, regulations, and government documents prepared by or for the State or county departments shall be written in English, but may use Hawaiian language where appropriate with an English translation in parenthesis.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of H.B. No. 2409, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2409, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Nakasato.

SCRep. 2469 Housing and Hawaiian Programs on H.B. No. 2724

The purpose of this bill is to provide that final public reports for two-apartment condominium projects will not be subject to the automatic thirteen month expiration period otherwise mandated and that two-apartment condominium projects will not be subject to the requirement of the issuance of supplementary public reports.

However, your Committee finds that a two-apartment condominium project should have an expiration date for its preliminary public report and be subject to the requirements of a supplementary public report so that a developer shall be required to cease all offers for sale or sale and submit a proposed supplementary public report to the Real Estate Commission before the issuance of an effective date in the event that any circumstance occurs which renders the preliminary or final public report misleading.

Accordingly, your Committee has amended the bill to provide that:

1. A developer shall stop all offers of sales, as well as sales, when a public report is rendered misleading to purchasers and offers of sales shall not resume until an effective date has been issued by the commission for the supplementary public report;
2. A developer of a two apartment condominium project may request that its final report have no expiration date, if:
 - a. The developer submits a written request at least thirty days prior to the expiration date of the final public report and evidence that the apartments are retained by the developer or family member;
 - b. The final public report shall be subject to the supplementary public report requirements set forth in section 514A-41(a); and
 - c. The developer shall submit written notification to the commission within thirty days of a subsequent sale;
 - d. Then, after review of the request, the commission may order that the final public report shall have no expiration date;
3. If the real estate commission believes any person has violated any of various statutes relating to horizontal property regimes, the commission may investigate the records and files of the board of directors, real estate sales person and the purchaser; and
4. Statutorily provided investigatory powers, cease and desist orders, injunctive powers, and penalties are applicable to section 514A-132.

Your Committee has also made amendments to the wording and punctuation in Section 2 for precision, diction, and syntax.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of H.B. No. 2724, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2724, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Nakasato.

SCRep. 2470 Housing and Hawaiian Programs on H.B. No. 3721

The purpose of this bill is to establish that the bylaws of condominium associations provide for election of members of the board of directors by cumulative voting.

Your Committee finds that cumulative voting ensures that minorities have the opportunity for representation on an association's board of directors. It is an accepted corporate practice and is provided for in Hawaii Revised Statutes regarding profit and non-profit corporations.

Accordingly, your Committee has amended the bill to make cumulative voting mandatory for the election of directors and to add a definition of "cumulative voting." Other amendments have been made for the purposes of clarity, simplicity and style which do not affect the intent or substance of the bill.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of H.B. No. 3721, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3721, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Nakasato.

SCRep. 2471 Housing and Hawaiian Programs on H.B. No. 3960

The purpose of this bill is to clarify Act 132, Session Laws of Hawaii 1991 which was enacted to ensure that condominium project associations have adequate funding of replacement reserves so that apartment owners are not charged high fees unexpectedly for maintenance and repairs to condominium common elements. The bill clarifies Act 132 by:

- (1) Replacing the term "cash reserves" with "replacement reserves";

- (2) Requiring a minimum of fifty per cent, rather than one hundred per cent, of the estimated replacement reserves based on a reserve study performed by the association;
- (3) Extending the funding of estimated replacement reserves in increments from five to seven years;
- (4) Providing for enforcement by any apartment owners;
- (5) Providing that the requirements of this section override any requirements of the association, with certain exceptions relating to a requirement that the association collect more than fifty per cent of reserve requirements; and
- (6) Expanding the definition of "emergency situation" to include extraordinary expenses due to legal or administrative proceedings brought against the association.

Your Committee finds that Act 132 was enacted because of concerns that a number of condominium associations were not preparing or operating with an annual budget and that many associations had no reserves or were under-funded which caused apartment owners to be assessed with large special assessment fees. Your Committee is concerned that if only fifty per cent funding is required, associations which presently do not have reserves or which are under funded will fund only fifty per cent which will not alleviate the problem of special assessments of large amounts for apartment owners.

Accordingly, your Committee has amended this bill by providing that:

- (1) Full replacement reserve funding requirement is required and the provision for fifty per cent replacement reserve funding is deleted;
- (2) The requirements of this section override any association documents, with no exceptions; and
- (3) The provision which allows an apartment owner to sue to enforce a board to comply with this section and which states that the board has the burden of proof of compliance is deleted since the owners already have the right to sue under section 514A-88 and civil litigation procedures already establish that the board has the burden of proof of compliance.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of H.B. No. 3960, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3960, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Nakasato.

LCRep. 2472 Executive Appointments on Gov. Msg. No. 215

Recommending that the Senate consent to the nomination of STEVEN H. LEVINSON for Associate Justice of the State Supreme Court, for a term of ten years, in accordance with the provisions of Article VI, Section 3, of the Hawaii State Constitution.

Signed by all members of the Committee.

SCRep. 2473 Consumer Protection and Business Regulation on H.B. No. 2376

The purpose of this bill is to provide the Department of Commerce and Consumer Affairs (DCCA) with more latitude in formulating security requirements for prepaid legal service plans by deleting the statutory requirement that it consider legislative intent favoring the establishment of these plans.

Your Committee received testimony in support of the bill from the DCCA.

Your Committee finds that the purpose of requiring security is to ensure that funds paid by subscribers are available for their intended use. Existing language that requires the DCCA to focus on legislative intent encouraging the formation of plans, rather than on relevant financial factors, when determining the amount and type of security to be imposed, however, may lead to inadequate security and insolvency of such plans.

Your Committee has amended the bill by making technical, nonsubstantive amendments for the purposes of style and clarity.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of H.B. No. 2376, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2376, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2474 Consumer Protection and Business Regulation on H.B. No. 2468

The purpose of this bill is to amend Chapter 488, Hawaii Revised Statutes, so that closed panel prepaid legal service plans are regulated by the existing law that regulates open panel prepaid legal service plans.

Your Committee received testimony in support of the bill from the Department of Commerce and Consumer Affairs and the Hawaii State Bar Association.

The bill deletes the provision in the definition of "prepaid legal service plan" which limits the definition to only open panel plans, thereby giving the Department of Commerce and Consumer Affairs the ability to regulate both open and closed panel plans.

Your Committee finds that no rational basis exists for regulating open panel plans and not closed panel plans. While open panel plans offer the consumer greater freedom in selecting an attorney by not restricting a subscriber to a limited pool of attorneys, closed panel plans may be more economical.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of H.B. No. 2468, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2475 Consumer Protection and Business Regulation on H.B. No. 3021

The purpose of this bill is to exempt the State and the counties, when purchasing vehicles, from certain licensing requirements mandated by Chapter 437, Hawaii Revised Statutes (HRS), the Motor Vehicle Licensing Act.

Testimony in support of the bill was submitted by the Department of Commerce and Consumer Affairs.

Section 437-2(b), HRS, currently restricts a motor vehicle dealer from engaging in commercial activities outside its licensing county in the interests of protecting both the motor vehicle industry and the consuming public from unfair and deceptive tactics in the marketplace. However, your Committee believes that state and county governments, as consumers, do not need the same level of protection provided to the public and moreover, that application of Section 437-2(b), HRS, has sometimes interfered with the ability of state and county governments to purchase motor vehicles. In accordance with the public bidding requirements of Chapters 103 and 437, HRS, agencies have been required at times to purchase motor vehicles from dealers whose establishments are licensed in a neighboring county. In order to fulfill the licensing requirements of Chapter 437, HRS, dealers have had to establish "temporary" dealerships in other counties, or utilize other ad hoc mechanisms in order to complete the sale of motor vehicles to the agencies. The provisions of the bill would alleviate this problem while ensuring the continued protection of the consuming public.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of H.B. No. 3021, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2476 Consumer Protection and Business Regulation on H.B. No. 3025

The purpose of this bill is to permit the Board of Medical Examiners to issue a temporary educational teaching license to a physician who is not licensed to practice medicine in the State.

Your Committee received testimony in favor of the bill from the Hawaii Federation of Physicians and Dentists, the Hawaii Medical Association, and the Dean of the John A. Burns School of Medicine, University of Hawaii.

Your Committee finds the bill provides physicians and medical students in Hawaii with the opportunity to acquire updated information on new medical techniques and practices without leaving the State. This opportunity will allow them to benefit from the special expertise of renowned physicians who, although not licensed to practice medicine in the State, are nonetheless well qualified to teach medicine.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of H.B. No. 3025, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2477 Consumer Protection and Business Regulation on H.B. No. 3031

The purpose of this bill is to amend the fines imposed for violations of the motor vehicle repair law by repealing the existing fine schedule and inserting a minimum of \$100 and a maximum of \$2,500 for fines assessed under Chapter 437B, Hawaii Revised Statutes (HRS).

The Department of Commerce and Consumer Affairs testified in favor of the bill.

Your Committee finds that such an amendment provides the Motor Vehicle Repair Industry Board with more latitude in enforcing Chapter 437B, HRS, pertaining to motor vehicle repairs.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of H.B. No. 3031 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2478 Consumer Protection and Business Regulation on H.B. No. 3030

The purpose of this bill is to amend Section 435-8(a), Hawaii Revised Statutes, to allow the Board of Medical Examiners ("Board") to take disciplinary action against a medical doctor for "egregious" conduct.

Your Committee received testimony in support of the bill from the Hawaii Medical Association and the Department of Commerce and Consumer Affairs.

Your Committee finds that the current standard of "gross negligence," which has been defined as a conscious indifference to circumstances, is so difficult to satisfy that, not surprisingly, no disciplinary action incorporating such an allegation has been successful since the standard has been in effect. Clearly, severe harm may result due to mere negligence and consumers should be protected in these instances.

Your Committee has amended the bill by deleting the somewhat ambiguous term "egregious conduct" and replacing it with the familiar negligence standard.

Your Committee finds that, while negligence is a lower standard than gross negligence, it effects a necessary compromise between the rights of patients and fairness to physicians, especially in view of the Board's broad discretion with regard to the imposition of appropriate penalties.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of H.B. No. 3030, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3030, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2479 Consumer Protection and Business Regulation on H.B. No. 3279

The purpose of this bill is to make housekeeping amendments to Article 2A of the Uniform Commercial Code, regarding leases, to conform the language of the Article to the language of the Uniform Act.

Your Committee heard testimony from the Hawaii Uniform Law Commission in support of the bill.

Your Committee finds that the measure brings the sections of the Hawaii Uniform Commercial Code being amended into conformity with laws in other jurisdictions.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of H.B. No. 3279 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2480 Judiciary on H.B. No. 2139

The purpose of this bill is to amend section 657-5, Hawaii Revised Statutes, relating to state court judgments and decrees.

Under the existing provision, all state court judgments and decrees are presumed to be satisfied after ten years and therefore no action on a judgment or decree can be filed after the ten-year period.

According to testimony in support of the bill, which was submitted by an attorney in private practice, the term "action" is not defined, and therefore an "action" on a judgment could mean either a garnishment or attachment to collect on a judgment or a separate action to extend the judgment for a period greater than ten years. Thus, in *Bailey v. Frank*, a 1990 Hawaii Supreme Court memorandum opinion (Docket No. 14407), the court construed section 657-5, Hawaii Revised Statutes, to allow an extension of a judgment for another ten-year period when the action for extension is brought before the expiration of the ten-year period.

The bill, as received by your Committee, explicitly limited any extension, revival or renewal beyond twenty years from the date of the original judgment or decree. The bill also required a notice and hearing on the extension. And finally, the bill prohibited an extension in three instances: (1) if the extension action begins after the ten-year period; (2) against a party who has been released by a divorce decree from the marital debt supporting the judgment; and (3) if the creditor fails to pursue collection activity for any continuous three-year period.

Your Committee amended the bill so that the statute of limitations for extensions is the same for all decrees and judgments. More specifically, the bill was amended by:

- (1) Deleting the instances where extensions are prohibited;
- (2) Clarifying that all judgments and decrees are presumed to be paid and discharged after the ten-year period unless an extension is granted;
- (3) Providing that no action shall be commenced after the expiration of ten years from the date that the judgment or decree was rendered or extended;
- (4) Providing that no extension is to be granted unless filed within ten years of the date of the original judgment or decree; and
- (5) Making other clarifying and stylistic amendments to the provisions pertaining to the twenty-year limit and notice and hearing requirements.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2139, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2139, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2481 Judiciary on H.B. No. 3266

The purpose of this bill is to amend sections 607-14.5 and 663-1.7, Hawaii Revised Statutes, by deleting provisions that limit the amount of attorneys' fees that can be assessed against a party that files a frivolous claim or defense.

Under the current provisions, a court may assess up to 25% of the amount originally prayed for, upon a specific finding that a claim or defense was frivolous. This bill eliminates that 25% ceiling.

Your Committee finds that the amendments are consistent with the abolition of ad damnum clauses in tort litigation.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3266, H.D. 1, and recommends that it pass Second Reading, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2482 Judiciary on H.B. No. 3724

The purpose of this bill is to protect the interests of the fee simple owner and lessor of real property where the lessee's interest has been forfeited pursuant to the Hawaii Omnibus Criminal Forfeiture Act.

Under the bill, the holder of the immediate reversionary interest will have first opportunity to acquire the remaining leasehold interest and any improvements on the property. The holder has thirty days after receiving written notice within which to accept or reject the offer in writing. If the holder accepts the offer, the holder has thirty days to tender the purchase price to the state or county. However, if the holder declines or fails to exercise the right of first refusal within thirty days, the Attorney General may proceed to sell the leasehold interest and any improvements by public sale.

Your Committee amended the bill to clarify that the purchase price is to be tendered to the Attorney General, who administers the disposition of forfeited property and the criminal forfeiture fund under the Act.

Your Committee finds that this bill adequately protects the rights of innocent property owners and other interest holders while facilitating the disposition of forfeited leasehold properties.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3724, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto H.B. No. 3724, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senator Koki.

SCRep. 2483 Judiciary on H.B. No. 3903

The purpose of this bill is to extend the waiting period for obtaining a permit to acquire a firearm by four days.

Your Committee received supporting testimony from the Honolulu Police Department and the League of Women Voters of Hawaii.

According to the Honolulu Police Department, a longer waiting period is necessary to properly conduct background checks into the applicant's psychological, medical and criminal history -- all of which are necessary to determine the fitness of the permit applicant. Extending the waiting period will give the police enough time to conduct an adequate investigation and obtain responses to inquiries sent to physicians, psychologists and psychiatrists.

The National Rifle Association of Hawaii, Hawaii Rifle Association, the Hawaii Federation of Sportsmen and private individuals opposed the bill, citing the imposition on law-abiding citizens and questioning the need to extend the waiting period in light of the computers and communications equipment available to conduct criminal background checks. The Hawaii Rifle Association opined that the focus should be on resolving the problems that cause the delays in background checks; for example, granting immunity to health care professionals who may be reluctant to disclose information for fear of exposing themselves to liability.

Your Committee finds that the additional inconvenience of a four-day extension is outweighed by the need to insure that only appropriate persons are allowed to secure firearms.

However, the suggestions offered by the Hawaii Rifle Association, of providing immunity to health care professionals is meritorious. Your Committee amended the bill to grant a qualified immunity to physicians, psychologists and psychiatrists who provide information or render an opinion in response to inquiries made for purposes of issuing firearm permits.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3903, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3903, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Koki.

SCRep. 2484 Transportation and Intergovernmental Relations on H.B. No. 3044

The purpose of this bill is to allow the Department of Transportation to accept credit card payments for airport charges.

Your Committee finds that the acceptance of payment by credit card is a widely accepted business practice that should be extended to airport tenants.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of H.B. No. 3044 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2485 Transportation and Intergovernmental Relations on H.B. No. 3047

The purpose of this bill is to penalize employers who knowingly allow unqualified drivers to drive commercial motor vehicles.

Currently, the law prohibits employers from using unqualified drivers but does not provide a penalty for doing so.

Your Committee has made technical, nonsubstantive changes to the bill.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of H.B. No. 3047, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3047, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2486 Transportation and Intergovernmental Relations on H.B. No. 3049

The purpose of this bill is to enlarge the Barbers Point pilotage area within which a licensed pilot must be on board a ship.

Your Committee finds that the present pilotage area at Barbers Point is inadequate for ships to anchor while awaiting entry to either the offshore moorings or the harbor. The enlargement of the pilotage area will enhance safety and reduce the possibility of an oil spill due to vessel groundings.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of H.B. No. 3049, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2487 Transportation and Intergovernmental Relations on H.B. No. 3239

The purpose of this bill is to conform state law on parking for persons with disabilities with the guidelines established at the federal level.

Your Committee finds that a uniform parking system will enhance the access and safety of persons with disabilities.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of H.B. No. 3239, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2488 Transportation and Intergovernmental Relations on H.B. No. 3248

The purpose of this bill is to allow the director of finance to accept a county certificate of title as prima facie evidence of ownership of a vehicle being registered or transferred.

Your Committee finds that the requirement that the seller's signature on a certificate of title must be verified before a transfer of ownership can be processed is an outdated, unnecessary practice.

Your Committee has amended the bill to delete provisions which would allow the director of finance to enter into contracts with the private sector for the registration and issuance of license plates for new vehicles.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of H.B. No. 3248, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3248, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2489 Planning, Land and Water Use Management on H.B. No. 2591

The purpose of this bill is to amend the Hawaii State Planning Act's objectives relating to affordable housing by emphasizing public/private sector cooperation and collaboration, the State's obligation to develop and provide affordable rental housing, and development of emergency, transitional, and single occupant rental units for Hawaii's special needs population.

Your Committee strongly supports public/private cooperation and collaboration in developing affordable housing, and finds that the State has a responsibility to increase the supply of affordable rental housing. However, your Committee finds that the provision relating to emergency, transitional, and single occupancy rentals, identified in the findings of this bill as intended for the special needs population comprised of socially disadvantaged citizens, is too specific for the broad objectives of Part I of the Plan.

Accordingly, your Committee has amended this bill by deleting the amendment to Section 226-19(b), Hawaii Revised Statutes, and revising the findings and purpose provided in SECTION 1 to reflect this amendment.

Your Committee has also made some nonsubstantive technical amendments for the purpose of clarity and style.

Your Committee on Planning, Land and Water Use Management is in accord with the intent and purpose of H.B. No. 2591, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2591, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2490 Planning, Land and Water Use Management on H.B. No. 3055

The purpose of this bill is to amend Chapter 185, Hawaii Revised Statutes, to redefine the role and jurisdictional responsibilities of the Department of Land and Natural Resources regarding wildfires.

Your Committee finds that wildfires cause extensive environmental and financial damage to property and often threaten personal safety. Your Committee further finds that wildfires are often due to negligence or malice and those responsible should be held accountable. As proposed, this bill will modernize the Department's response capabilities, reaffirm its relationships with other fire agencies, and strengthen the government's ability to hold accountable those who set fires either willfully or through negligence.

Your Committee on Planning, Land and Water Use Management is in accord with the intent and purpose of H.B. No. 3055 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2491 Planning, Land and Water Use Management on H.B. No. 3061

The purpose of this bill is to extend the final date by which long term leases between the State and residents of Kalawahine, Oahu may be executed pursuant to Act 150, Session Laws of Hawaii 1990.

Act 150 authorizes the Department of Land and Natural Resources to enter into long term residential agreements with residents of Kalawahine (Tax Map Key 2-4-34-8: approximately twelve acres makai of Tantalus Drive and adjoining the Ewa portion of Kalawahine Place) who agree to have the land under their homes transferred to the Department. The deadline for executing the leases was January 1, 1992. The Department has identified the qualified residents and informed them of their options, but the lands to be set aside for relocation of these people have yet to be subdivided, and certain state and county approvals must still be obtained.

This bill would extend the deadline to December 31, 1993.

Your Committee finds that the Department is making a good faith effort to comply with Act 150 and believes that it will be able to accomplish its task given a reasonable deadline extension.

Your Committee has amended this bill by adding six months to the proposed extended deadline (now June 30, 1994), and by making some technical changes that have no substantive effect.

Your Committee on Planning, Land and Water Use Management is in accord with the intent and purpose of H.B. No. 3061, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3061, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2492 Planning, Land and Water Use Management on H.B. No. 3132

The purpose of this bill is to allow the Aloha Tower Development Corporation Board of Directors to choose its own Chairperson from within its membership.

Current law designates the Director of Business, Economic Development, and Tourism as the Chairperson.

Your Committee finds that the statutory designation was appropriate to ensure that the Corporation started out with a leader who was knowledgeable in business and community affairs. However, the Board now consists of several members who meet this criteria, and since the Governor appoints three from the general public, your Committee is assured that the Board will continue to meet its current level of expertise.

Your Committee on Planning, Land and Water Use Management is in accord with the intent and purpose of H.B. No. 3132 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2493 Judiciary on H.B. No. 2613

The purpose of this bill is to amend section 703-309, Hawaii Revised Statutes, pertaining to the amount of force that can be used by persons with special responsibility for the care, discipline, or safety of others.

Your Committee received numerous testimonies on the bill. The Attorney General, Honolulu Police Department, Hawaii State Commission on the Status of Women, Hawaii State Committee on Family Violence, Kauai YWCA Sex Abuse Treatment Program, the Hawaii State Coalition Against Sexual Assault, Sex Abuse Interventions, and Child and Family Service testified in support of the bill.

The Honolulu Department of the Prosecuting Attorney, Hawaii State Coalition Against Sexual Assault and the Hawaii State Committee on Family Violence supported the intent of the bill but requested amendments to reduce the level of permissible force and make consistent the standards of permissible force for parents and teachers.

The Office of the Public Defender expressed concern that the standards be clear and that the judicial response to the use of impermissible force be more helpful to the family than harmful.

In opposition to the bill, Kapiolani Medical Center for Women and Children testified against any justification for the use of force on children. American Parents Association of Hawaii, American Freedom Coalition of Hawaii and The Aloha Church in Lihue also opposed the bill but on the grounds that it created a double standard for parents and teachers and imposed unreasonable restraints on a parent's ability to discipline a child.

Your Committee recognizes that the line between physical abuse and appropriate parental discipline is a very subjective one. What one parent considers discipline may seem abusive to another. Your Committee had to consider how best to draw the line in the context of the legal defense provided for parents, guardians, teachers and other child caretakers when determining guilt in a criminal trial. Your Committee believes that the "gray areas" must be resolved by not criminalizing such parental discipline, even if a majority of the community would find the extent of the punishment inappropriate.

In light of these considerations, your Committee amended the bill by replacing its substance with the Senate's version, set forth in S.B. 3189, S.D. 1, with the following additional changes:

(1) Your Committee deleted the word "death" from paragraph (1)(b), since the lower threshold makes it surplusage and its elimination removes the risk of the other words in that paragraph being interpreted "noscitur a sociis" with a term that is not pertinent to the lower threshold.

This deletion is in addition to the changes proposed in S.B. No. 3189, S.D. 1 -- that is, the deletion of "substantial" before "risk" and the substitution of "substantial" for "serious" before "bodily injury" -- all of which are intended to effect a reduction in the permitted level for force, since any risk of causing substantial bodily injury is unacceptable.

As a result of these changes, the terms retained from the prior law (disfigurement, extreme pain or mental distress, or gross degradation) must be reinterpreted by the courts, since the changes affect the application of the rule of construction applied in State v. DeLeon, 72 Hawaii 241, 813 P.2d 1382 (1991). However, your Committee notes that the changes are not intended to create a standard under which the result in DeLeon would have been different. The force used by the father in DeLeon, as described in the decision, did not exceed the permissible force under the new language.

Your Committee has also reviewed the memorandum opinion issued in Hawaii v. Sedeno, FC-CR No. 90-3674 (February 20, 1992). It is your Committee's opinion that, applying the new standard to the facts as outlined in the dissent of Justice Wakatsuki, the conviction in Sedeno would have been upheld. The deletion of the word "substantial" in describing the level of permissible risk is intended to prohibit the intentional and punitive striking of an infant's head with more than slight force. Like the finding of the trial court, as noted in the dissent, that striking the one-year-old child in the head exposed the child to substantial risk of serious bodily injury, it is your Committee's belief that intentionally and punitively striking an infant's head with more than slight force generally creates a risk of substantial bodily injury.

Finally, the standards in the new law should be interpreted in light of the age of the child, the intent to be very protective of children of tender age and the need to be protective of all children with respect to the use of force on the areas of a person's anatomy where the use of force raises the risk of neurological damage -- the face, the head, the neck and the spinal column -- regardless of the child's age.

(2) Technical, nonsubstantive amendments were made for purposes of clarity, consistency and style.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2613, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2613, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Tungpalan and Reed.

SCRep. 2494 Judiciary on H.B. No. 2801

The purpose of this bill is to amend various provisions of the Hawaii Revised Statutes to correct errors, update references, clarify language or delete obsolete or unnecessary provisions. All amendments are technical and contain no substantive changes to the law.

Your Committee amended this bill by incorporating the substance of H.B. No. 400, S.D. 1, which added a new section to Chapter 490, Hawaii Revised Statutes, and renumbering the sections of the bill accordingly. The section to be added was inadvertently repealed by Act 118 of 1991 Session Laws of Hawaii, pertaining to negotiable instruments under the Uniform Commercial Code. While the reenactment of the former section 490:3-505.5, Hawaii Revised Statutes, appears to be a substantive matter and outside the scope of this bill's title; this expression of a legislative finding that the repeal was an "error" brings it within the title of the bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2801, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2801, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senator Tungpalan.

SCRep. 2495 Judiciary on H.B. No. 3314

The purpose of this bill is to amend section 560:2-511, Hawaii Revised Statutes, pertaining to pour-over trusts, to incorporate the 1991 version of the Uniform Testamentary Additions to Trusts Act (UTATA). The intent of UTATA 1991 is to better carrying out the testator's intention. More specifically, UTATA 1991 makes the following changes:

- (1) The receptacle trust need not be established during the testator's lifetime but can be established by the bequest in the will;
- (2) The trust terms may be set forth in a written instrument executed after as well as before or concurrently with the execution of the will;
- (3) The bequeathed property is administered in accordance with the terms of the trust, including any amendments made after as well as before the testator's death, unless the testator's will provides otherwise; and
- (4) The testator's will may provide that the bequest does not lapse even if the trust is revoked or terminated before the testator's death.

Your Committee received testimony in support of the bill from the Hawaii's Commission to Promote Uniform Legislation and an attorney in private practice.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3314, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Tungpalan.

SCRep. 2496 Judiciary on H.B. No. 3324

The purpose of this bill is to add to the class of pretrial orders from which the State can appeal in criminal cases by including evidentiary orders, witness competency orders, and orders granted pursuant to a motion in limine.

In support of the bill, the Department of the Attorney General and the Honolulu Department of the Prosecuting Attorney testified that the bill will enable the State to appeal a pretrial order that it believes to be erroneous and which may otherwise result in the exclusion of crucial evidence. Under the current law, the State may be precluded from correcting an erroneous pretrial order if the defendant is acquitted as a result of that order because the State cannot appeal a not guilty verdict. This bill is to insure that criminal charges are disposed of correctly and not because of an erroneous pretrial order for which there is no remedy.

The Judiciary and the Public Defender expressed concern that the bill will increase the appellate caseload, exacerbate trial delays and interfere with a defendant's right to a speedy trial.

However, your Committee sees no incentive for the prosecutors to clog up the courts' calendars and finds that the courts are capable of disposing of frivolous appeals. Court rules, specifically Rule 48 of the Rules of Penal Procedure, currently provide a process for assuring a defendant's right to a speedy trial. Furthermore, an appellate ruling on issues that might otherwise be repeatedly raised before the trial courts will promote uniformity in trial court rulings and result in fairer and more expeditious handling of future trials.

Your Committee has amended the bill by excluding orders based on motions in limine, which are defined by the time of their being raised and not their substance. Orders based on motions in limine were also excluded because they are not final orders, but merely advisory in nature.

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

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3324, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3324, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt and Reed.

SCRep. 2497 Judiciary on H.B. No. 3726

The purpose of this bill is to create a new offense for intentionally or knowingly filing a false charge with the State Ethics Commission.

Your Committee heard testimony in support of the bill from private individuals. The State Ethics Commission, while in support of the intent, questioned the need for the bill since there may already be existing criminal penalties and civil remedies to address false accusations against public servants and officials. The Public Defender expressed similar concerns, adding that the provisions of the bill relating to damages may also contravene section 706-641(3) of the Hawaii Penal Code, which requires that the court determine whether the defendant is or will be able to pay before mandating payment of a fine.

Your Committee finds that this bill is unnecessary because there are already applicable statutes under the Hawaii Penal Code. See Hawaii Rev. Stat. sections 710-1060, et seq.

Therefore, your Committee deleted the substance of the bill and amended the State Ethics Code to include provisions for the mandatory reporting of gifts by legislators and public employees.

Under the proposed law, legislators and public employees are required to file gift disclosure statements with the State Ethics Commission on June 30 of each year, provided that the following conditions are met: (1) the legislator or employee, or a spouse or dependent child of a legislator or employee, receives from one source any gift valued singly or in the aggregate in excess of \$200; (2) the source of the gift or gifts has interests that may be affected by official action or lack of action by the legislator or employee; and (3) the gift is not otherwise exempted.

The gift disclosure statement covers the preceding twelve months and must include a description of each gift, a good faith estimate of the value of each gift, the date each gift was received, and the name of the person or business from whom each gift was received.

In addition, the new law excludes from the reporting requirements certain gifts, such as gifts received by inheritance; gifts from certain relatives; political campaign contributions that comply with state law; items that are available or are distributed to the public without regard to the official status of the recipient; gifts that are returned or donated within thirty days; and exchanges of approximately equal value on holidays, birthdays and special occasions.

Your Committee also amended section 84-31, Hawaii Revised Statutes, accordingly.

Your Committee believes that the bill, as amended, complements section 84-11 of the State Ethics Code, which prohibits legislators or public employees from soliciting or accepting any gift under circumstances in which it can reasonably be inferred that the gift is intended to influence the legislator or employee in the performance of official duties or is intended as a reward for any official action, since the statements can be reviewed to determine whether there have been any violations of section 84-11.

Your Committee finds that this bill facilitates greater openness in matters that the public has the right to know; that is, information on gifts and other "freebees" received by government employees and legislators as a result of their employment or position. The inconvenience caused by this bill to public employees and legislators is a small price to pay for promoting public confidence in our government.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3726, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3726, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Tungpalan.

SCRep. 2498 Housing and Hawaiian Programs on H.B. No. 1346

The purpose of this bill is to require that the Housing Finance and Development Corporation (HFDC) offer at least ten per cent of the houselots in a HFDC-sponsored single family development to owners who agree to construct their own home or to nonprofit corporations assisting owner-builders in such development project.

Your Committee finds that although HFDC testified that provisions for self-help construction will be a part of future development packages, it is necessary to require that HFDC offer ten per cent of the houselots for self-help development by owners, instead of allowing self-help development only where HFDC deems it feasible.

Consequently, your Committee has amended this bill to provide that this section is applicable to projects of fifty units or more and that the design and quality of materials in the units constructed by owners shall be of similar design and quality as those units developed by HFDC. Your Committee has also made amendments to the wording for precision, diction, or syntax.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of H.B. No. 1346, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1346, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2499 Housing and Hawaiian Programs on H.B. No. 2737

The purpose of this bill is to require a landlord or a landlord's agent to disclose in writing to the tenant the name and address of the person responsible for the safekeeping and custody of the security deposit and of the person who will receive any interest which accrues on the security deposit.

Testimony in support of this bill was received from the Hawaii Association of Realtors, Legal Aid Society of Hawaii and the Department of Commerce and Consumer Affairs.

Your Committee has amended this bill to require disclosure of the name and address of any person, in addition to the landlord or manager, who is responsible for the custody of the security deposit, to deal with concerns of the difficulty tenants have in bringing the appropriate party to small claims court.

Your Committee on Housing and Hawaiian Programs is in accord with the intent and purpose of H.B. No. 2737, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2737, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2500 Consumer Protection and Business Regulation on H.B. No. 3022

The purpose of this bill is to improve the licensing and regulation of contractors by:

- (1) Requiring building permit applicants to submit a statement verifying that all specialty contractors are licensed under Chapter 444, Hawaii Revised Statutes (HRS);
- (2) Conforming the experience and examination requirements of contractor licensure to Contractors License Board (Board) rules;
- (3) Allowing licensing applicants sixty days from the date of the Board's decision to submit a request for a contested case hearing;
- (4) Applying the statute of limitations provisions of Section 444-28, HRS, to actions for arbitration awards which may result in collection from the Contractors Recovery Fund;
- (5) Increasing the interest rate on reimbursements to the Contractors Recovery Fund; and
- (6) Making various "housekeeping" revisions to Chapter 444, HRS, for purposes of clarity and style.

Your Committee heard testimony in support of this measure from the Contractors License Board.

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

- (1) Raising the licensing law exemption for "handymen" from less than \$100 to less than \$1,000;
- (2) Including a provision that would terminate the license of any contractor whose actions, representations, conduct, or transactions have resulted in the execution of a settlement agreement requiring payment from the Contractors Recovery Fund; and
- (3) Making several nonsubstantive technical revisions.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of H.B. No. 3022, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3022, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2501 Consumer Protection and Business Regulation on H.B. No. 3028

The purpose of this bill is to:

- (1) Clarify standards for the submittal of documents and establish additional disclosures a subdivision developer must provide to the Department of Commerce and Consumer Affairs;
- (2) Repeal an exemption on the registration of subdivisions comprised of one hundred or fewer units; and
- (3) Make various "housekeeping" revisions to the Uniform Land Sales Practices Act, Chapter 484, Hawaii Revised Statutes (HRS), for the purposes of clarity and style.

Your Committee finds that certain inconsistencies and ambiguities in the Uniform Land Sales Practices Act impede the State's ability to insure the compliance of land development projects with State laws regarding the registration of subdivided lands. For example, while the term "common promotional plan" is currently utilized in Chapter 484, HRS, it is not specifically defined. Because of this, many developers have assumed that if a project is done in phases, exemptions may be available for each of the different phases, even if the developer is essentially pursuing the sale of a single development. In light of this, certain developers have sought to avoid registration of different phases within a single project. The revisions proposed in this bill would alleviate this inconsistency as well as eradicate a loophole in the Uniform Land Sales Practices Act.

In addition, the lack of a definition for the term "material change" used in Chapter 484, HRS, has made ambiguous the determination of a buyer's right to rescind the sale of a project. The establishment of a definition for "material change" provides developers with guidance as to what type of change in a project would entitle the buyer to rescind the sale.

Your Committee further finds that a significant number of subdivision projects in Hawaii consist of 100 or fewer units, and therefore may not comply with the standard registration requirements with which other projects must comply. The

repeal of the "10(g)" exemption would provide equity to subdivision developers as well as benefit the consuming public by requiring additional disclosures be made by the developers of smaller subdivision projects.

Your Committee has amended this bill by:

- (1) Revising the definition of "common promotional plan";
- (2) Requiring that a subdivider file in writing with the director, rather than provide a written election; and
- (3) Making technical amendments for the purposes of clarity and style which do not affect its substance.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of H.B. No. 3028, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3028, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2502 Consumer Protection and Business Regulation on H.B. No. 3039

The purpose of this bill is to amend Chapter 672, Hawaii Revised Statutes, regarding the Design Professional Reconciliation Panel (DPRP).

The bill will amend the law as follows:

- 1) Clarify that any party to a DPRP claim may seek a determination of unsuitability from the circuit courts.
- 2) Provide additional bases for determining the unsuitability of disputes for disposition under this chapter.
- 3) Amend procedures for the appointment of DPRP chairpersons.
- 4) Provide for partial payment of DPRP panel members when claims are resolved prior to the completion of the hearing process.
- 5) Clarify that each party to a DPRP claim must submit the required \$450 to cover costs and that the balance remaining after all costs have been paid will be returned on a pro rata basis.
- 6) Provide for panel hearings to be held as soon as possible instead of the current thirty days from the filing of the response to a claim.
- 7) Require design professionals to file written responses to claims brought against them.
- 8) Clarify that other than the production of work-related documents and records, discovery will not be allowed in DPRP proceedings.
- 9) Provide that requests for production of documents will be at the chairperson's sole discretion.
- 10) Extend the time in which the panel must issue its written decision from fifteen to thirty days.
- 11) Eliminate redundancies in the service of the panel's final order.
- 12) Require the panel to make a determination of damages only if evidence of damages is presented to the panel.

Your Committee has made technical, nonsubstantive amendments to the bill.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of H.B. No. 3039, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3039, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2503 Consumer Protection and Business Regulation on H.B. No. 3441

The purpose of this bill is to allow an existing nonprofit parent company to self-fund its risks through a newly created pure nonprofit captive insurance company without jeopardizing the parent's tax exempt status.

The Department of Commerce and Consumer Affairs and the Hawaii Captive Insurance Council testified in support of the bill.

Your Committee finds that nonprofit entities such as hospitals and health systems serving the general public would realize substantial benefit from the ability to fund their own risks through the formation of insurance subsidiaries. Under current law, however, a nonprofit corporation may do so only at the risk of losing its tax exempt status as such subsidiaries cannot be incorporated as nonprofit entities.

This bill permits a nonprofit parent company to incorporate a pure captive insurance subsidiary as a nonprofit corporation under Chapter 415B, Hawaii Revised Statutes. As a captive insurance company, the subsidiary may only insure the risks of its parent and affiliates within the same corporate system. The bill will allow neither the formation of a

pure nonprofit captive insurance company by a for profit parent company nor the formation of an association or group nonprofit captive insurance company.

Your Committee believes that this bill will not only benefit nonprofit entities and the people that they serve, but will enhance the State's appeal as an attractive captive insurance domicile and expand its ability to market to nonprofit entities as well.

Your Committee has made several nonsubstantive technical amendments to conform the bill with standard drafting guidelines.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of H.B. No. 3441, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3441, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2504 Consumer Protection and Business Regulation on H.B. No. 3568

The purpose of this bill is to require a manufacturer or distributor to affix a notice to either the window or windshield of a new vehicle, which provides safety information to consumers on the vehicle's bumper system.

This bill will provide consumers with important safety information to help them make informed decisions on their new car purchases.

Your Committee has amended the bill by adding language which clarifies the contents of the notice and the definition of minor damage.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of H.B. No. 3568, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3568, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2505 Ways and Means on H.B. No. 2911

The purpose of this bill is to appropriate an unspecified sum to the department of Hawaiian home lands to cover administrative costs, establish a contingency fund, and finance low interest loans for the development of a self-help construction program in Panaewa and Keaukaha in the county of Hawaii.

Your Committee finds that without the means to finance home construction, families participating in the self-help programs at Keaukaha and Panaewa will not have the opportunity to purchase their own homes. Many families are unable to secure adequate financing because they have neither the income nor the savings to qualify for such financing. This bill provides the department of Hawaiian home lands with the financing necessary to carry out these programs for its beneficiaries.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2911, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2506 Ways and Means on H.B. No. 2922

The purpose of this bill is to appropriate \$25,000,000, to the department of Hawaiian home lands, for fiscal year 1992-1993, to provide investment capital for the development of Hawaiian home lands for residential, agricultural, and other purposes permitted by the Hawaiian Homes Commission Act, 1920, as amended.

Specifically, this bill:

- (1) Provides funds for the construction of on-site and off-site improvements at: (a) Nanakuli, Waianae, Kauhale Nani, Lualualei, and Paheehee ridge, Oahu; (b) Puupulehu, Waimea, Makuu, Panaewa, and Puukapu, Hawaii; (c) Anahola, Kauai; and (d) Hoolehua, Molokai; and
- (2) Allows funds not needed in a cost element to be used in another cost element.

Your Committee has amended this bill by changing the amount appropriated to the department of Hawaiian home lands, for fiscal year 1992-1993, for the construction of capital improvements on the abovementioned Hawaiian home lands, from \$25,000,000, to \$13,880,000, and by making technical nonsubstantive amendments.

Your Committee has also amended this bill by inserting provisions to:

- (1) Appropriate \$12,000,000, to the department of budget and finance, for fiscal year 1992-1993, for the purpose of paying compensation for the State's uncompensated use of Hawaiian home lands since August 21, 1959, including the use of these lands under governors' executive orders and proclamations. The sum appropriated is to be expended by the department of budget and finance upon certification by the office of state planning that a wrongful use has been verified. Compensation may be paid throughout fiscal year 1992-1993, as claims are verified and the

amounts of compensation owed are determined. The office of state planning is authorized to adopt rules as may be necessary for these purposes;

- (2) Authorize the State to acquire interests less than fee simple absolute, which the Hawaiian homes commission is authorized to grant in order to allow specific public uses of Hawaiian home lands identified in this bill, for a lump sum payment. The following Hawaiian home lands may be selected, and used by agreement, by the State, pursuant to the Hawaiian Homes Commission Act, 1920, as amended:

<u>Location and Use</u>	<u>No. of Acres</u>	<u>Tax Map Key No.</u>
Hawaii:		
Humuula game reserve	11,124	3-8-1:8
Puukapu reservoir	23	6-4-2:125
Humuula forest reserve	3,822	3-8-1:13, 13 and 4 por
Maui:		
Kahikinui forest reserve	8,747	2-2-7:5 por., 1-9-7:7, 11, 3 por
Molokai:		
Kalamaula ranger station	7	5-2-8:77 and 83
Molokai high school	10*	5-2-15:2
Palaau state park	234	5-2-13:6
Oahu:		
Nanaikapono school	14	8-9-1:4 por
Nanakuli forest reserve	180	8-9-8:1
Waimanalo forest reserve	1,413	4-1-11:1, 4-1-14:8 and 4-1-14:6

*portion of Hawaiian home lands

- (3) Authorize the department of Hawaiian home lands to purchase parcels of public lands until December 31, 1993. The department of land and natural resources is required to convey by quitclaim deed, with the prior concurrence of the office of state planning, the parcels of land purchased by the department of Hawaiian home lands. The following public lands may be selected by, and conveyed to, the department of Hawaiian home lands, pursuant to the Hawaiian Homes Commission Act, 1920, as amended, or pursuant to this bill:

<u>Location and Use</u>	<u>No. of Acres</u>	<u>Remarks</u>
Oahu:		
Ewa	200	Part of land acquired by the State next to Kapolei Villages
Camp Andrews	30	Within Nanakuli Homestead, TMK No. 8-9-02:1, TMK No. 2-9-02:1
Hawaii:		
Kailua-Kona Mauka	150	Part of land acquired by State next to Kealakehe, TMK No. 7-4-08:12 por

- (4) Appropriate \$925,500, to the department of budget and finance, for fiscal year 1992-1993, for the purpose of paying moneys owed to the department of Hawaiian home lands as the department of Hawaiian home lands' thirty per cent entitlement for the use of public lands at Honokawai, Maui, formerly under lease for sugarcane cultivation on November 7, 1978, pursuant to Section 1 of Article XII of the Constitution of the State of Hawaii;
- (5) Appropriate \$675,000, for fiscal year 1992-1993, for the office of the governor to assist the state task force on department of Hawaiian home lands title and related claims in preparing the remaining claims package for submission to the legislature in 1993;
- (6) Appropriate \$500,000, for fiscal year 1992-1993, for the department of the attorney general to pursue Hawaiian home lands trust claims against the federal government;
- (7) Appropriate \$150,000, for fiscal year 1992-1993, for the department of Hawaiian home lands to conduct an audit of the sugarcane lease entitlement to Hawaiian home lands; and
- (8) Make the provisions of this bill severable.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2922, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2922, H.D. 2, S.D. 1.

Signed by all members of the Committee.

SCRep. 2507 (Majority) Ways and Means on H.B. No. 3095

The purposes of this bill are to require the counties to accept the dedication of streets, vehicular rights-of-way, and other public facilities or easements developed pursuant to Act 15, Session Laws of Hawaii 1988, subject to certain indemnification provisions, and to clarify that state and county standards which are in force when the project is developed shall be the applicable standards.

The bill also provides that the final plans and specifications for projects consistent with Act 15 shall be deemed in conformance with the county's general plan and development or community plan. The bill allows appropriate state or county agencies to process permit applications and issue permits for use and improvement of land and buildings within such projects on the basis that the final plans and specifications are deemed in conformance with the general plan and development or community plan and constitute the zoning, building, construction, and subdivision standards of the county for that project.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3095, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.
Senator George did not concur.

SCRep. 2508 Ways and Means on H.B. No. 3244

The purpose of this bill is to allow the Hawaii housing authority to provide youth activity coordinators for state housing projects containing fifty or more units.

The bill requires coordinators to evaluate the needs of these youths in determining appropriate activities and to consult with the office of children and youth and the office of youth services in developing these activity programs. The bill further clarifies the authority's power to provide other programs or services that the authority deems in the interests of tenants.

Your Committee finds that it is very important to provide coordinated recreational, sports, community service, career development, and job training programs in public housing locations.

Your Committee has made technical, nonsubstantive amendments for the purposes of clarity and style.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3244, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3244, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 2509 Ways and Means on H.B. No. 3283

The purpose of this bill is to exempt from the general excise tax law amounts for common expenses received by nonprofit homeowners or community associations.

The general excise tax law currently exempts amounts received for common expenses by associations of apartment owners of condominium property regimes and cooperative housing corporations. It is the intent of this bill to provide the same exemption for nonprofit homeowners and community associations.

Your Committee finds that the fees collected for common expenses by nonprofit homeowners and community associations and the fees collected by condominium and cooperative associations have similar purposes and should be treated equitably. This bill accomplishes that goal.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3283, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2510 (Majority) Ways and Means on H.B. No. 3353

The purpose of this bill is to authorize the issuance of revenue bonds in the amount of \$55,000,000 for the purpose of financing and refinancing the purchase of the Queen Emma Gardens Apartments.

Your Committee finds that the rent restrictions under the federal urban renewal program which originally facilitated the development of the Queen Emma Gardens Apartments are set to expire in 1996. Because of the impending expiration of these restrictions, rents in the complex have been steadily rising, thereby reducing the affordability of renting the individual units in the complex.

To facilitate further discussion on the funds necessary to carry out the purposes of this measure, your Committee has amended this bill by replacing the amount of revenue bonds to be authorized with a blank amount.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3353, H.D. 3, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3353, H.D. 3, S.D. 1.

Signed by all members of the Committee.
Senator George did not concur.

SCRep. 2511 Ways and Means on H.B. No. 3558

The purpose of this bill is to require the housing finance and development corporation to report annually to the legislature on the status of all funds and programs under its jurisdiction, rather than just the homes revolving fund.

Your Committee finds that although the housing finance and development corporation is currently required to submit an annual report to the legislature, the law specifically limits the scope of the report to the activities of the homes revolving fund. Because the corporation currently administers ten separate special and revolving funds, your Committee finds that the scope of the corporation's reporting requirement should be expanded.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3558, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2512 Ways and Means on H.B. No. 3926

The purpose of this bill is to appropriate \$50,000 to relocate the Pacific Asia Travel Association to Hawaii.

Upon further consideration, your Committee has amended this bill by replacing the \$50,000 appropriation with an unspecified amount.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3926, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3926, H.D. 1, S.D. 2.

Signed by all members of the Committee.

SCRep. 2513 Ways and Means on H.B. No. 2039

The purpose of this bill is to provide financial assistance to governmental agencies for the planning, design, and construction of treatment works.

Your Committee finds that \$63,000,000, in federal funds will be available for the planning, design, and construction of treatment works owned by a government agency until 1994. Your Committee recognizes that the problem of water pollution control has reached serious proportions in Hawaii. To this end, your Committee notes that the absence of a specific appropriation figure is not indicative of the Committee's concern for this serious problem.

Your Committee has amended the bill by making technical changes that have no substantive effect, and by correcting the effective date to read: July 1, 1992.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2039, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2039, H.D. 1, S.D. 2.

Signed by all members of the Committee.

SCRep. 2514 Ways and Means on H.B. No. 2366

The purpose of this bill is to reestablish the Molokai Irrigation System Water Users Advisory Board, which was terminated on June 6, 1991, under the sunset provision of Act 48, Session Laws of Hawaii 1990.

The bill would:

- (1) Restore the advisory board;
- (2) Specify the duties and responsibilities of the board; and
- (3) Provide an appropriation to carry out the purposes of the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2366, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2515 Ways and Means on H.B. No. 2959

The purpose of this bill is to appropriate funds for the department of health to identify the cause of recent algal blooms in the ocean waters off West Maui.

Your Committee finds that state funding is needed to identify and resolve whatever is causing the dramatic increase of algal blooms in West Maui. Understanding the cause and effect of environmental changes in West Maui can benefit the entire State and ensure the continued well-being of the shoreline and marine life that is critically important to the visitor industry.

Your Committee has amended this bill by changing the amount of the appropriation to \$100,000 and requiring the department of health to report findings and recommendations to the legislature no later than twenty days before the convening of the regular session of 1993.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2959, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2959, H.D. 2, S.D. 1.

Signed by all members of the Committee.

SCRep. 2516 Ways and Means on H.B. No. 3072

The purpose of this bill is to permanently authorize the department of agriculture to transfer funds among the agricultural products revolving fund, the agriculture loan revolving fund, and the aquaculture loan revolving fund.

Your Committee finds that it is in the interest of the State for the department of agriculture to continue making these transfers. However, your Committee believes that this authority should not be permanent.

Accordingly, your Committee has amended this bill to reinstate the provisions for the expiration of this authority and has extended the expiration date from June 16, 1992, to June 16, 1995, for all three funds.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3072, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3072, H.D. 2, S.D. 1.

Signed by all members of the Committee.

SCRep. 2517 Ways and Means on H.B. No. 3073

The purpose of this bill is to authorize the board of agriculture to set, assess, and collect acreage assessments for irrigation projects.

The bill also sets forth the method and procedure for levying a real property lien for delinquent assessments and specifies this type of lien's priority over all other liens, except for real property tax liens.

Your Committee finds that this authority is necessary to appropriately address contemporary concerns relating to agriculture, water, and the environment.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3073, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2518 Ways and Means on H.B. No. 3084

The purpose of this bill is to amend the State's underground storage tank law to ensure consistency, conformance, and equivalency with federal statutes and rules applicable to the regulation of underground storage tanks.

This bill also adds several new sections to the law to finance and establish soil remediation farms throughout the State beginning on October 1, 1992. This bill further establishes regulatory requirements for the repair and maintenance of underground storage tanks.

Your Committee finds that the State's underground storage tank law was enacted in 1986. Since that time, numerous new federal requirements and regulations have been adopted. This bill, as originally introduced, provided the means to ensure full conformance with all federal laws and regulations enacted subsequent to the passage of the State's underground storage tank law.

Your Committee has amended this bill by:

- (1) Correcting an apparent error in the section relating to the establishment of soil remediation farms. Your Committee has substituted the provision requiring all soil remediation farms to be located in areas "below the water table" with a requirement that these facilities be placed in locations where contamination of the water table would not occur;
- (2) Clarifying that the Act being amended in section 33 of this bill is Act 267 of the Session Laws of Hawaii 1990, rather than 1991;
- (3) Deleting the language in section 36 stating that "all laws and parts of laws heretofore enacted which are in conflict with the provisions of this Act are hereby amended to conform herewith. Your Committee is concerned that language of this kind, which is simultaneously very broad and lacking in specificity, could have many unintended

consequences with respect to other statutes; and the only way to determine whether those laws are in fact amended by this provision would be through litigation; and

- (4) Making technical, nonsubstantive changes for purposes of clarity and style.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3084, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3084, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 2519 Ways and Means on H.B. No. 3233

The purpose of this bill is to require the use of waste glass in the form of glassphalt on Hawaii's roadways.

Glassphalt (crushed glass) would be used as an aggregate in the asphalt mix in all state and county road construction and paving projects following development of appropriate standards by the director of transportation. Pending the development of standards, the use of crushed glass will be required in all state and county contracts involving non-structural applications, such as cushioning and backfill.

Your Committee finds that current glass recycling programs have been unsuccessful because of the limited market for recycled glass in Hawaii. Hence, those wishing to recycle glass must pay shipping costs to the mainland that can exceed the value of the end product. Your Committee further finds that, by using crushed glass as an aggregate in the asphalt mix used for road construction and paving, Hawaii could conserve limited landfill space while at the same time saving substantial public dollars. Demonstration projects in Hawaii, as well as in other states, have established the feasibility of such a program.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3233, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2520 Ways and Means on H.B. No. 3342

The purpose of this bill is to appropriate funds to create a nonpoint source pollution management and control program in the department of health to administer, enforce, and carry out all laws, rules, and programs relating to nonpoint source pollution in the State.

The bill confers various powers to the director of health to reduce, control, and mitigate nonpoint source pollution in Hawaii. The bill also appropriates a blank amount for fiscal year 1992-1993 to establish two permanent planner V positions to staff the program and to provide for neighbor island and out-of-state travel for technical assistance, implementation activities, training, and the cost of producing, duplicating, and distributing information to the public. The bill further requires that the appropriated amount be administered by the director of health to provide for projects recommended by the nonpoint source pollution technical committee as established by the department of health in conjunction with the Hawaii Association of Conservation Districts.

Your Committee finds that the creation of the nonpoint source pollution management and control program is necessary and timely and that federal non-matching funds used for the implementation of the State's nonpoint source pollution assessment report and management plan required by the federal Clean Water Act have been discontinued and that only federal matching funds continue to be available. Your Committee finds that state funding is needed to replace the lost federal non-matching funds and to fund staff to develop and submit proposals for federal funding for nonpoint source pollution project implementation.

Your Committee has amended this bill to replace one of the two permanent planner V positions with one clerical position. Your Committee has also made technical nonsubstantive amendments for the purpose of clarity and style.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3342, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3342, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 2521 Ways and Means on H.B. No. 3660

The purpose of this bill is to establish and designate as a program of the State of Hawaii museum of natural and cultural history, a Hawaii biological survey. Specifically, this bill requires that the survey:

- (1) Consist of an ongoing natural history inventory of the Hawaiian archipelago to locate, identify, evaluate, and maintain the reference collections of all native and non-native species of flora and fauna within the State;
- (2) Coordinate with and complement the work of the Hawaii heritage program, established by chapter 195, Hawaii Revised Statutes, which manages data on rare native plants, animals, and natural communities throughout the State; and
- (3) Be conducted in coordination with the existing databases of the department of agriculture, the department of land and natural resources, the University of Hawaii, and other appropriate organizations.

Your Committee has amended this bill by making technical nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3660, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3660, H.D. 1, S.D. 2.

Signed by all members of the Committee.

SCRep. 2522 Ways and Means on H.B. No. 2808

The purpose of this bill is to continue the regulation of pawnbrokers and bring the archaic provisions now governing them in line with current practices. Accordingly, the bill:

- (1) Adds seven new definitions to section 445-131, Hawaii Revised Statutes;
- (2) Repeals sections 445-133 and 445-134;
- (3) Provides for written pawn agreements and specifies their contents;
- (4) Requires finance charge disclosures similar to those required by the federal Truth-in-Lending Act;
- (5) Limits pawn transactions to one month in duration with the possibility of month-to-month extensions;
- (6) Establishes a thirty-day holding period for redemption of pawned goods;
- (7) Establishes a maximum finance charge of twenty per cent per month;
- (8) Increases the penalties for violations of the pawnbroker law;
- (9) Changes the sunset date of the pawnbrokers law to December 31, 1995; and
- (10) Specifies that pawnbrokers and other county licensees are subject to payment of compliance resolution fund fees.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2808, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2523 Ways and Means on H.B. No. 3011

The purpose of this bill is to strengthen the State's insurance code by meeting the national accreditation standards established by the National Association of Insurance Commissioners (NAIC).

Your Committee finds that the failure of companies such as Executive Life Insurance Company and Mutual Benefit Life Insurance Company in recent years has underscored the need for increased regulatory scrutiny of insurance companies. Your Committee believes that this bill will provide the safeguards necessary to prevent future insurance company failures from occurring.

The bill, consisting essentially of six parts, provides for stricter disclosure, review, reporting, and financial examination requirements consistent with NAIC standards. Accreditation will ensure that financial examinations conducted in-state will be accepted by the other states.

Your Committee has amended the bill by making technical, nonsubstantive amendments for purposes of style and clarity.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3011, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3011, H.D. 1, S.D. 2.

Signed by all members of the Committee.

SCRep. 2524 Ways and Means on H.B. No. 3040

The purpose of this bill is to clarify the powers and duties of the Hawaii property insurance association and limit the State's liability in actions brought against the association.

Specifically, the bill:

- (1) Requires the association to report to the insurance commissioner any nonpayment by a member insurer of any assessment due to the association and authorizes the association to bring civil action to enforce payment;
- (2) Vests the board of directors with the responsibility and control over the organization, management, policies, and activities of the association;

- (3) Deletes the requirement that the nine voting insurer members of the board of directors be subject to the approval of the insurance commissioner;
- (4) Limits the State's liability with regard to claims, debts, or causes of action arising out of the association's actions or activities;
- (5) Delineates the standards to be used by the insurance commissioner in evaluating the association's plan of operation; and
- (6) Eliminates the appeal to the insurance commissioner of decisions by the board of directors and provides only for appeals to the board of directors.

Your Committee has amended the appeals provision of this bill to delete the provision allowing decisions of the board to be appealed to the insurance commissioner. Your Committee has provided for judicial review of decisions of the board of directors.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3040, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3040, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 2525 Ways and Means on H.B. No. 3163

The purpose of this bill is to revise the manner in which financial institutions are taxed to provide for a more equitable method of taxation.

Your Committee recognizes that this bill is the product of more than three years of work that was initiated as a result of a recommendation of the Tax Review Commission. This bill eliminates the blanket exemption from the general excise tax for financial institutions in favor of exemptions for only certain types of income. Amendments to chapter 241 update provisions of the law that were enacted when federal law exerted more control over the State's ability to tax financial institutions. Your Committee finds that these changes to the law more accurately reflect the current tax policy.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3163, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2526 Ways and Means on H.B. No. 3277

The purpose of this bill is to amend the laws relating to the taxation of insurance companies.

The current law imposes a different tax rate for domestic and foreign insurance groups. This bill, among other things, amends the law to provide one rate of tax for both domestic and foreign insurance companies. Your Committee recognizes that there is litigation in progress on this matter. Your Committee finds that due to the uncertain outcome of the litigation and the desire to proceed with a fair and constitutional insurance tax law that uniform rates for insurance companies should be enacted.

Your Committee has made technical, nonsubstantive changes for purposes of style.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3277, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3277, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 2527 Ways and Means on H.B. No. 3620

The purpose of this bill is to require the department of commerce and consumer affairs (DCCA) to submit to the 1994 legislature recommendations for the regulation and licensure of social workers and to delay the sunset of the law regulating social workers from 1992 to 1999.

The report mandated by the bill would include:

- (1) Definitions of "social worker" and "social work" tied to the scope of practice to be regulated;
- (2) A licensing scheme for social workers;
- (3) Suggestions on the implementation of a licensure program; and
- (4) Findings on the impact a licensure program would have on government employed social workers.

Your Committee believes that a study to restructure the existing regulatory scheme is necessary despite the recommendation of the legislative auditor's November 1991 sunset evaluation report that regulation of social workers is not currently warranted; without some form of regulation, unscrupulous practices in the social work profession may occur.

Your Committee has made minor technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3620, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3620, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 2528 Ways and Means on H.B. No. 602

The purposes of this bill are to increase the number of positions authorized in the super class salary ranges for the judiciary and to allow the judiciary to hire unlimited medical personnel in the super class ranges.

This bill provides the judiciary with the same flexibility currently afforded the State and the counties with respect to classifying positions that have duties and responsibilities warranting the super class salary ranges.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 602, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2529 Ways and Means on H.B. No. 2433

The purpose of this bill is to require each agency seeking bids for the issuance of public contracts to evaluate each prospective bidder's past performance to determine the eligibility of the bidder to compete for the contract.

This bill also requires that preference be awarded to contractors who file Hawaii state tax returns and pay state taxes.

Your Committee finds that the proposed amendment to the procurement law contained in this bill which requires agencies to examine each bidder's record and past performance will ensure the participation and selection of only the most qualified bidders in the public bidding process. However, your Committee finds that the provision requiring that preference be awarded to bidders on the basis of their tax filing status in the State may pose several questions with respect to constitutionality. In this regard, your Committee has deleted the provision from this bill.

Your Committee has also made a technical, nonsubstantive amendment for purposes of style.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2433, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2433, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 2530 Ways and Means on H.B. No. 2828

The purpose of this bill is to convert to civil service certain temporary positions and incumbents in the department of education.

Your Committee agrees with the finding of the Committee on Employment and Public Institutions that the incumbents should be entitled to permanent civil service status if they have performed their work satisfactorily for six months, as provided by this measure.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2828, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2531 Ways and Means on H.B. No. 3111

The purpose of this bill is to allow the department of public safety to receive gifts of money or property.

More specifically, the department may receive, use, manage, and invest moneys or property, real, personal, or mixed, which may be given, bequeathed, devised, or in any other manner provided from sources other than the legislature or the federal government, for any purpose authorized by this bill and not inconsistent with any terms or conditions imposed by the donor, this bill, or the law relating to standards of conduct.

The bill also requires:

- (1) A gift of money to be deposited by the director of finance in a separate account in the state treasury and expended in accordance with law and any terms and conditions that may pertain to the gift. Unless otherwise specified as a term or condition, the department of public safety is permitted to convert a gift of property into money. Income derived from property or the conversion of property can be used to pay for the storage, handling, and distribution of other properties held by the department;
- (2) All expenditures made pursuant to this bill to be subject to the approval of the director of public safety; and

- (3) The department to maintain records of each gift, the essential facts of the management thereof, details relating to expenditures of all moneys made pursuant to this bill, and the current disposition, use, and condition of each gifted property held by the department. This information is required to be compiled and transmitted annually to the legislature and the governor, and to be made available to the general public free of charge.

Your Committee has amended this bill by making a technical nonsubstantive amendment.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3111, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3111, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 2532 Ways and Means on H.B. No. 3119

The purpose of this bill is to continue transferring law enforcement positions and functions to the department of public safety from other state departments.

Specifically, the bill transfers: executive security officers in the department of the attorney general effective January 1, 1993; after-hours contract security employees with the department of education, including library security officers and contractual security officers, effective January 1, 1993; uniformed security employees and contractual security officers employed by the department of health for the state hospitals, effective January 1, 1993; and contractual security guards with the department of human services, effective January 1, 1993.

Act 211, Session Laws of Hawaii 1989, established the department of public safety as the umbrella organization for state law enforcement functions that previously had been assigned to various departments. Act 211 transferred some personnel and functions to the department of public safety and required the director, in consultation with the governor, to study other personnel and functions that should be transferred also. This bill codifies the recommendations made pursuant to that study.

The bill also provides for an appropriation in a blank amount for fiscal year 1992-1993 to facilitate the transfers.

Your Committee finds that the transfers proposed by this measure are consistent with the policy established by Act 211.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3119, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2533 Ways and Means on H.B. No. 3121

The purpose of this bill is to strengthen and streamline the decision-making procedures of the criminal injuries compensation commission.

Your Committee finds that the hearing requirement is unduly burdensome for some applicants and that many cases can be decided by the administrator; provided that the case can be adjudicated appropriately on the basis of available records and documents and that the applicant has waived a hearing. Your Committee notes that there is precedent in other states for similar procedures. Your Committee also finds that the other substantive provisions in this bill will expedite the business of the commission without adversely affecting the rights of applicants under chapter 351, Hawaii Revised Statutes.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3121, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2534 Ways and Means on H.B. No. 3658

The purpose of this bill is to require the memorial to the veterans of the Korean and Vietnam conflicts to be constructed on the Ewa lawn of the state capitol.

The memorial would be constructed among the trees near the Richards Street border of the state capitol, bounded on one side by the covered stairway (with appropriate setback), Richards Street (with appropriate setback), and Beretania Street (with appropriate setback).

Specifically, this bill:

- (1) Requires the proportions of the memorial to be consistent with the size of existing structures in the area, such as the statues of Queen Liliuokalani and Father Damien; and
- (2) Requires the design of the memorial to utilize the natural assets of the site, with secluded areas of wall and trees for purposes of remembrance and meditation;

The bill also:

- (1) Specifies that the commission on war memorials has until September 30, 1992, to finalize a design for the memorial that meets the criteria set forth in the bill. In formulating its design for the memorial, the commission is required to consult with all interested veterans' and citizens' groups. If the commission fails to produce a satisfactory design for the memorial by September 30, 1992, then the department of accounting and general services is required to finalize the design within thirty days;
- (2) Requires the department of land and natural resources to solicit the participation of all veterans' organizations, including veterans of the Korean and Vietnam conflicts, in the planning and design of the war memorial hall within the Aiea (Rainbow) bay state recreation area, as proposed in the master plan. This participation is required to supplement input provided by community groups and members relating to park development. Use of the memorial hall by the community and veterans is intended to foster a better understanding of the sacrifices of veterans and their fallen comrades, and the design of the hall is required to appropriately reflect this intent; and
- (3) Appropriates an unspecified sum to the department of accounting and general services, for fiscal year 1992-1993, to carry out the purposes of this bill as they relate to the memorial to the veterans of the Korean and Vietnam conflicts.

Your Committee has amended this bill by:

- (1) Clarifying that the commission on war memorials is the veterans memorial commission in section 6E-44, Hawaii Revised Statutes;
- (2) Excepting the provision requiring the department of accounting and general services to finalize the design for the memorial within thirty days if the commission fails to produce a satisfactory design by September 30, 1992, from section 6E-44, Hawaii Revised Statutes; and
- (3) Making technical nonsubstantive amendments for purposes of clarity and style.

Your Committee finds the grounds of the state capitol to be a fitting site for a memorial to the veterans of the Korean and Vietnam conflicts, notwithstanding disagreements about the design of the memorial itself.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3658, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3658, S.D. 2.

Signed by all members of the Committee.

SCRep. 2535 Ways and Means on H.B. No. 3062

The purpose of this bill is to provide annual deposits into the natural area reserve fund and the forest stewardship fund from proceeds arising out of the public land trust.

The bill requires an applicant landowner or cooperating entity to agree to certain conditions and requires a public hearing before terminating state funding for a management plan approved by the board under the natural area partnership program. The bill also allows the landowner to withdraw from the natural area partnership program while allowing the perpetual easement to remain in effect. The bill further provides for revocation of the dedication of private land if state funding is terminated without the concurrence of the landowner or cooperating entity.

The bill also requires annual reports on the two programs regarding the two funds' financial condition including compliance with the purchase of service law. The bill further provides for blank appropriations for the natural area reserve fund and the forest stewardship fund.

Your Committee finds that dedicated funding in these times of budget cutbacks and anticipated shortfalls in revenue collection is unwise. Your Committee agrees with the language relating to termination of funding in that the language encompasses lapsing as well as arbitrary withdrawal of the State's contributions (implying dedicated funding), and dedicated funding should not be categorically ruled out despite being inappropriate this year.

Your Committee has amended this bill to reinstate statutory language that was inadvertently deleted from prior drafts and by making technical nonsubstantive amendments for the purposes of clarity and style.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3062, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3062, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 2536 Ways and Means on H.B. No. 521

The purpose of this bill is to conform with the requirements of Article VII, Section 13, of the Hawaii State Constitution.

Your Committee finds that the Article VII, Section 13, of the Hawaii State Constitution requires that "Effective July 1, 1980, the legislature shall include a declaration of findings in every general law authorizing general obligation bonds that the total amount of principal and interest, estimated for such bonds and for all bonds authorized and unissued and calculated for all bonds issued and outstanding, will not cause the debt limit to be exceeded at the time of issuance". This bill provides the basic format to calculate findings in conformance with this requirement.

Although the figures necessary to declare findings cannot be inserted into this measure at this time, your Committee finds the general format in this bill requires updating to conform with the figures, dates, and information relevant to the current session of the legislature. In this regard, your Committee has replaced the contents of this bill with the contents of S.B. No. 3085, with several technical revisions.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 521, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 521, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2537 Ways and Means on H.B. No. 2544

The purpose of this bill is to authorize the issuance of special purpose revenue bonds for multi-project capital improvement programs for the furnishing of electric energy by Hawaiian Electric Company, Inc., and its subsidiaries.

Your Committee agrees with the Committee on Science, Technology and Economic Development that this bill is in the public interest as savings in interest cost from the issuance of the special purpose revenue bonds will result in lower electricity rates to consumers.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2544, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2538 Ways and Means on H.B. No. 2612

The purpose of this bill is to appropriate funds to collect data regarding the victims of hate crimes.

More specifically, the bill develops an incident-based statistical gathering model for the collection of data on victims of crimes evidencing prejudice or an irrational hostility toward another person or group of persons based on gender. An expert consultant can be employed to develop the model data collection mechanism and at the same time ascertain whether there is a need for additional hardware, software, and personnel for the State and respective county police departments.

In addition, this bill requires the department to submit the model, together with findings, recommendations, and any necessary implementing legislation, to the legislature twenty days before the convening of the regular session of 1993.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2612, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2539 Ways and Means on H.B. No. 3002

The purpose of this bill is to appropriate funds from the general revenues of the State to satisfy claims for legislative relief, judgments against the State, settlements, attorney fees, and miscellaneous claims. The bill further provides the reasons and the amount and rate by which the appropriations contained in this bill exceed the state spending limit for fiscal year 1991-1992.

Your Committee was informed by the department of the attorney general that since the measure was referred to your Committee, four additional cases were concluded, settled, or in the process of being settled. The department recommended payment of these additional claims.

Your Committee has amended this bill by including the additional case judgments and settlements as recommended by the department of the attorney general, specifically, the Andrade, Hawaii Blind Vendor Association, Singer, and Smith actions.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3002, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3002, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 2540 Ways and Means on H.B. No. 3179

The purpose of this bill is to appropriate funds for the acquisition of an electronic voting system for the State which may include punchcard and marksense voting systems.

The bill repeals Act 302, Session Laws of Hawaii 1991, which provided funds for a totally electronic voting system and lapses the unexpended balance of the appropriation into the general fund. The bill also exempts the selection and negotiation process from chapter 103, Hawaii Revised Statutes, the State's procurement law.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3179, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2541 Ways and Means on H.B. No. 2431

The purpose of this bill is to establish the Korean celebration executive committee and the ethnic celebration trust fund for the planning and funding of the ninetieth anniversary of the arrival of the first Korean immigrants to Hawaii.

Your Committee agrees with the Committee on Culture, Arts, and Historic Preservation that it is appropriate to recognize the anniversary of the arrival of the first Koreans to Hawaii and to acknowledge their contributions to the rich multi-cultural heritage of Hawaii.

Your Committee has amended this bill by changing the amount appropriated from \$100,000 to \$50,000, and by making technical nonsubstantive changes.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2431, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2431, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 2542 Ways and Means on H.B. No. 3936

The purpose of this bill is to make an appropriation to protect, preserve, and manage the saltponds at Hanapepe, Kauai.

Your Committee agrees with the finding of your Committee on Culture, Arts, and Historic Preservation that the Hanapepe Saltponds are a cultural site of high preservation value as they are still being utilized in the traditional manner for the gathering and production of salt. Your Committee also agrees that there are a number of problems at the saltponds as a result of flooding, poor drainage, and contaminants which must be dealt with.

Your Committee has amended this bill by changing the appropriation to an unspecified amount to facilitate continuing discussion on this matter.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3936, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3936, H.D. 1, S.D. 1.

Signed by all members of the Committee.

SCRep. 2543 Ways and Means on H.B. No. 3102

The purpose of this bill is to refine the provisions of chapter 42D, Hawaii Revised Statutes, which governs the award of grants, subsidies, and purchases of services, before the new law takes effect.

Act 335, Session Laws of Hawaii 1991, was enacted to improve the procedures for the awarding of grants, subsidies, and purchases of service, effective July 1, 1992. Since that enactment, there has been continuing dialogue among interested parties to iron out concerns regarding the implementation of the new procedures. As a result of this dialogue, it has been determined that the new law requires refinement to provide for a coordinated planning process; private sector input and legislative involvement; a workable timetable for submission of proposals and execution of agreements; and sufficient funding and resources to support the administration of the process. The bill directs the office of state planning to coordinate a planning process and to submit a report to the governor and the legislature upon the completion of that process, and delays the effective date of chapter 42D, Hawaii Revised Statutes, to July 1, 1994.

Your Committee has amended this bill as follows:

- (1) Sections 2, 3, and 16 were deleted since substantive amendments were not being made in those sections, and the remaining sections in the bill were renumbered;
- (2) Paragraph (3) of the new subsection (c) added to section 42D-22 was amended to substitute the term "department's" with the term "contracting agency's" for clarity;
- (3) The effective date section was amended to change the date from July 2, 1994, to July 1, 1994, and to provide that sections 16, 17, and 18 (relating to appropriations for fiscal year 1992-1993) take effect on July 1, 1992; and
- (4) Several technical, nonsubstantive amendments were made throughout for purposes of style.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3102, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3102, H.D. 1, S.D. 2.

Signed by all members of the Committee.

SCRep. 2544 Ways and Means on H.B. No. 2843

The purpose of this bill is to clarify the scope of services to be provided under the hearing and vision programs offered in the public schools.

Your Committee agrees with your Committee on Education that a comprehensive and systematic program for early detection, identification, and follow-up is needed to prevent educational and behavioral problems and ensure that children with hearing and vision deficiencies receive treatment in a timely manner.

Your Committee has amended this bill by making technical, nonsubstantive changes, to ensure that two sets of numbered paragraphs would not be contained in the same subsection.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2843, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2843, S.D. 2.

Signed by all members of the Committee.

SCRep. 2545 Ways and Means on H.B. No. 3493

The purpose of this bill is to appropriate \$1,444,000 for repairs and maintenance in each of the 236 public schools of the State.

Specifically, this bill:

- (1) Gives each school the discretion to determine, in consultation with the department of accounting and general services, which repairs and maintenance should be done with its share of the appropriation;
- (2) Requires that those schools needing the most repair and maintenance be given priority over other schools;
- (3) Requires that repairs and maintenance relating to pupil safety be given priority over other repairs and maintenance;
- (4) Allows the principal of each school to ask the parents of students to volunteer their time and labor to do repair and maintenance work, subject to the condition that any materials are to be furnished from the school's share of appropriation; and
- (5) Requires that all remaining funds be used for minor repair and maintenance projects that have been determined to be priorities by the department of accounting and general services' school repair and maintenance program.

This bill also appropriates \$444,000 for salaries and expenses to establish eight handyworker positions within the central services division of the department of accounting and general services. Specifically, this bill requires that these positions be dedicated to the department of accounting and general services' school repair and maintenance program and serve areas of critical need.

Your Committee has amended this bill by making technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3493, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3493, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 2546 Ways and Means on H.B. No. 3934

The purpose of this bill is to establish a two-year pilot Hawaii young scholars program in five selected elementary schools.

Your Committee agrees that there is a need for early identification of elementary school students who may benefit from a comprehensive college preparation program.

Your Committee has amended this bill by changing the amount appropriated from \$1 to an unspecified amount in order to continue discussion on this issue and by making a technical nonsubstantive change for purposes of style, clarity, and consistency.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3934, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3934, H.D. 2, S.D. 2.

Signed by all members of the Committee.

LCRep. 2547 Executive Appointments on Gov. Msg. Nos. 226, 228, 229, 230, 234, and 242

Recommending that the Senate advise and consent to the nominations of the following:

SAM COX to the Child Abuse and Neglect Secondary Prevention Advisory Committee, term to expire June 30, 1993 (Gov. Msg. No. 226);

GWENDOLYN R. COSTELLO, SHAWNA BRIZZOLARA, M.D., and LESLIE K.W.C. FONG to the Child Abuse and Neglect Secondary Prevention Advisory Committee, terms to expire June 30, 1995 (Gov. Msg. No. 226);

TERRILL S. CHILSON to the State Planning Council on Developmental Disabilities, term to expire June 30, 1992 (Gov. Msg. No. 228);

TERRILL S. CHILSON, ELEANOR E. DANIELS-BOOZE, MICHAEL GRIFFIN, GERALDINE MARULLO, PAUL T. MATSUNAGA, NANCY L. KUNTZ, M.D., SHERYL NELSON and DEBORAH J. RIVERS to the State Planning Council on Developmental Disabilities, terms to expire June 30, 1996 (Gov. Msg. No. 228);

PHYLLIS M. BROWDER, Ph.D., FRANCES U. GOMES and MYRON M. YAMAUCHI to the Commission on Persons With Disabilities, terms to expire June 30, 1996 (Gov. Msg. No. 229);

WILLIAM F. HANING, M.D., and STEVEN B. KEMBLE, M.D., to the Hawaii Advisory Commission on Drug Abuse and Controlled Substances, terms to expire June 30, 1993 (Gov. Msg. No. 230);

GEORGE W. READ, Ph.D., to the Hawaii Advisory Commission on Drug Abuse and Controlled Substances, term to expire June 30, 1995 (Gov. Msg. No. 230);

ALONZO DEMELLO, Ph.D., CARMEN DI AMORE-SIAH, MARIAN E. TSUJI and BENJAMIN WRIGHT, JR., to the Hawaii Advisory Commission on Drug Abuse and Controlled Substances, terms to expire June 30, 1996 (Gov. Msg. No. 230);

KYLE M. MIURA and SARAH KNOWLTON O'DONNELL to the State Council on Mental Health and Substance Abuse, terms to expire June 30, 1992 (Gov. Msg. No. 234);

M. HO'OIPO DECAMBRA and ROBERT K. WEAD to the State Council on Mental Health and Substance Abuse, terms to expire June 30, 1993 (Gov. Msg. No. 234);

LILA R. MARANTZ, MAJKEN MECHLING, PHILLIP A. MICHAELS, KYLE M. MIURA and SARAH KNOWLTON O'DONNELL to the State Council on Mental Health and Substance Abuse, terms to expire June 30, 1996 (Gov. Msg. No. 234);

CLARK C.K. LIU, Ph.D., to the Board of Certification of Operating Personnel in Wastewater Treatment Plants, term to expire June 30, 1995 (Gov. Msg. No. 242); and

ALLEN L. PERRY JR., to the Board of Certification of Operating Personnel in Wastewater Treatment Plants, term to expire June 30, 1996 (Gov. Msg. No. 242),

Signed by all members of the Committee.

SCRep. 2548 Science, Technology and Economic Development on S.R. No. 42

The purpose of this Resolution is to request the Office of State Planning and the Department of Business, Economic Development, and Tourism to determine the feasibility of developing government-run warehouses to serve the needs of local businesses.

Your Committee finds that the high and escalating cost of land has caused a scarcity of industrial-zoned lands in metropolitan Honolulu that can be used for warehousing purposes. A study to find a cost effective alternative to the current warehousing situation would not only help alleviate the problem, but also provide useful data for an overall analysis on the cost of doing business in Hawaii.

Upon further consideration, your Committee has amended this Resolution by adding that the study should focus particularly on metropolitan Honolulu because this is where the greatest problem seems to be, according to the testimony of the Office of State Planning. Your Committee has also added a request to the Real Estate Research Center at the University of Hawaii to cooperate and assist in this study because they seem to have the specific expertise and because the Office of State Planning indicated that the Office has limited resources to do the study.

Your Committee on Science, Technology and Economic Development concurs with the intent and purpose of S.R. No. 42, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 42, S.D. 1.

Signed by all members of the Committee.

SCRep. 2549 Science, Technology and Economic Development on S.C.R. No. 55

The purpose of this Concurrent Resolution is to request the Office of State Planning and the Department of Business, Economic Development, and Tourism to determine the feasibility of developing government-run warehouses to serve the needs of local businesses.

Your Committee finds that the high and escalating cost of land has caused a scarcity of industrial-zoned lands in metropolitan Honolulu that can be used for warehousing purposes. A study to find a cost effective alternative to the current warehousing situation would not only help alleviate the problem, but also provide useful data for an overall analysis on the cost of doing business in Hawaii.

Upon further consideration, your Committee has amended this Concurrent Resolution by adding that the study should focus particularly on metropolitan Honolulu because this is where the greatest problem seems to be, according to the testimony of the Office of State Planning. Your Committee has also added a request to the Real Estate Research Center at the University of Hawaii to cooperate and assist in this study because they seem to have the specific expertise and because the Office of State Planning indicated that the Office has limited resources to do the study.

Your Committee on Science, Technology and Economic Development concurs with the intent and purpose of S.C.R. No. 55, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 55, S.D. 1.

Signed by all members of the Committee.

SCRep. 2550 Science, Technology and Economic Development on S.C.R. No. 103

The purpose of this Concurrent Resolution is to request that the Office of International Relations and the Department of Business, Economic Development and Tourism provide technical assistance to the Filipino Chamber of Commerce for its annual trade mission to the Philippines.

Your Committee finds that activities that increase trade between Hawaii and the Philippines are consistent with the State's goal to diversify the economy and improve the welfare of its citizens.

Your Committee on Science, Technology and Economic Development concurs with the intent and purpose of S.C.R. No. 103 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2551 Health and Human Services on S.C.R. No. 157

The purpose of this concurrent resolution is to request the Legislative Auditor to study the contract policies and administrative processes used by the Department of Health in the provision of services to persons with developmental disabilities.

Your Committee finds that the provision of services to persons with developmental disabilities continues to be a complex system comprising various public entities and private providers. Your Committee further finds that possible inequities within the present system need to be identified to ensure that developmentally disabled clients receive appropriate services through purchase of service contracts.

Your Committee has amended this concurrent resolution by:

- (1) Changing all references from "Legislative Auditor" to "Auditor";
- (2) Asking the Auditor to include in the evaluation the definition of unit cost;
- (3) Asking the Auditor to study how other states provide funding for services to persons with developmental disabilities; and
- (4) Making technical amendments for the purposes of clarity and style which do not affect its substance.

Your Committee on Health and Human Services concurs with the intent and purpose of S.C.R. No. 157, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 157, S.D. 1.

Signed by all members of the Committee except Senator Koki.

SCRep. 2552 Health and Human Services on S.C.R. No. 146

The purpose of this concurrent resolution is to request the Department of Health to study county licensing of rentals to three or more unrelated persons.

Your Committee finds that Part III of Chapter 445, Hawaii Revised Statutes, has been applied to the operation of group homes and facilities for the disabled, as well as to residential real estate rentals. Your Committee further finds that the application of Chapter 445 to residential rentals may have resulted in housing discrimination and exacerbated the shortage of affordable rentals for unrelated persons who may share housing.

Your Committee intends that this study also clarify the applicability of Chapter 445, Part III, particularly as to whether it was intended to apply to group homes for the disabled.

Your Committee has amended this concurrent resolution by deleting its substance and replacing it with the contents of its companion, House Concurrent Resolution No. 337. Your Committee has also requested that the Legislative Reference Bureau identify the problems posed by the administration of Part III, Chapter 445, particularly as it applies to residential rentals for three or more unrelated persons.

Your Committee on Health and Human Services concurs with the intent and purpose of S.C.R. No. 146, as amended herein, and recommends that it be referred to the Committee on Transportation and Intergovernmental Relations, in the form attached hereto as S.C.R. No. 146, S.D. 1.

Signed by all members of the Committee except Senator Koki.

SCRep. 2553 Health and Human Services on S.R. No. 117

The purpose of this resolution is to request the Department of Health to study county licensing of rentals to three or more unrelated persons.

Your Committee finds that Part III of Chapter 445, Hawaii Revised Statutes, has been applied to the operation of group homes and facilities for the disabled, as well as to residential real estate rentals. Your Committee further finds that the application of Chapter 445 to residential rentals may have resulted in housing discrimination and exacerbated the shortage of affordable rentals for unrelated persons who may share housing.

Your Committee intends that this study also clarify the applicability of Chapter 445, Part III, particularly as to whether it was intended to apply to group homes for the disabled.

Your Committee has amended this resolution by deleting its substance and replacing it with the contents of House Concurrent Resolution No. 337. Your Committee has also requested that the Legislative Reference Bureau identify the problems posed by the administration of Part III, Chapter 445, particularly as it applies to residential rentals for three or more unrelated persons.

Your Committee on Health and Human Services concurs with the intent and purpose of S.R. No. 117, as amended herein, and recommends that it be referred to the Committee on Transportation and Intergovernmental Relations, in the form attached hereto as S.R. No. 117, S.D. 1.

Signed by all members of the Committee except Senator Koki.

SCRep. 2554 Health and Human Services on S.R. No. 15

The purpose of this resolution is to recognize the contributions of the health care community and designate September 1992 as "Health Care Team Month".

Your Committee finds that health care professionals serve our community through their commitment to preserving life, promoting health, and improving the overall quality of life. Your Committee further finds that these professionals comprise a health care team of physicians, nurses, paramedics, dentists, health educators, and other allied health workers who should be recognized throughout the community for their many contributions. Testimony in support of this resolution was received from the Department of Health.

Your Committee on Health and Human Services concurs with the intent and purpose of S.R. No. 15 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Senator Koki.

SCRep. 2555 Health and Human Services on S.R. No. 16

The purpose of this resolution is to support the availability of mifepristone, known as RU-486, for research and clinical trials in the United States.

Your Committee finds that mifepristone, RU-486, has been shown to be a safe and effective non-invasive way to prevent the continuation of pregnancy. Testimony submitted by various sources in support of this resolution indicates that since 1988, RU-486 has been approved for administration in France, with a 95 percent effectiveness rate when used in early pregnancy. RU-486 is also believed to be effective in the treatment of breast cancer and other lymphomas, Cushing's syndrome, glaucoma, and infertility. Your Committee further finds that clinical trials of this drug are occurring in many countries, including Italy, India, Singapore, Great Britain, Sweden, the Netherlands, and Hong Kong.

Your Committee on Health and Human Services concurs with the intent and purpose of S.R. No. 16 and recommends its adoption.

Signed by all members of the Committee except Senator Koki.

SCRep. 2556 Health and Human Services on S.R. No. 29

The purpose of this resolution is to request the Legislative Auditor to investigate alternatives to existing welfare programs.

Your Committee finds that the most vulnerable sector of our population, the welfare poor and the working poor, are now facing reductions in benefits due to economic conditions which dictate cutbacks in national and state financial assistance programs. Your Committee further finds that in order to ward off these cutbacks which will send many families deeper into the spiral of poverty, alternatives to the existing financial assistance programs must be found. Testimony received from the Committee on Welfare Concerns indicates that the recent programs adopted in Hawaii to help families become independent of government assistance have not met with much success and alternative programs which remove disincentives to work and support poor single parents should be examined.

Your Committee has amended this resolution, both its title and substance, to request that the Legislative Reference Bureau (LRB), rather than the Legislative Auditor, conduct this study. The LRB is also requested to study the welfare systems in other states which have undertaken reform measures and their results. Technical amendments were also made for the purposes of clarity and style.

Your Committee on Health and Human Services concurs with the intent and purpose of S.R. No. 29, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 29, S.D. 1.

Signed by all members of the Committee except Senator Koki.

SCRep. 2557 Health and Human Services on S.R. No. 204

The purpose of this resolution is to request the Legislative Reference Bureau (LRB) to study issues related to the establishment of a Children's Trust Fund for the prevention of child abuse and neglect in Hawaii.

Your Committee finds that Hawaii is one of only two states which do not have a Children's Trust Fund to dedicate ongoing sources of funding for the prevention of child abuse and neglect. Your Committee further finds that Hawaii has been receiving federal Challenge grants since 1986 for innovative child abuse prevention and early intervention services, and these funds could be in jeopardy if a Children's Trust Fund is not established. Testimony in support of this resolution was received from the Departments of Education, Health, and Human Services; the Office of Children and Youth; and the Hawaii Children's Trust Fund Coalition comprising nineteen entities serving Hawaii's families.

Your Committee has amended this resolution by:

- (1) Asking the LRB to determine whether a Children's Trust Fund is necessary to maintain eligibility for Challenge grants;
- (2) Changing the word "Determine" to "Recommend" in the list of issues to be addressed; and
- (3) Asking the LRB to recommend whether the scope of the Children's Fund should be limited to child abuse and neglect or be expanded to include other programs which benefit children and youth.

Your Committee on Health and Human Services concurs with the intent and purpose of S.R. No. 204, as amended herein, and recommends that it be referred to the Committee on Legislative Management in the form attached hereto as S.R. No. 204, S.D. 1.

Signed by all members of the Committee except Senator Levin.

SCRep. 2558 Health and Human Services on S.R. No. 244

The purpose of this concurrent resolution is to request the Legislative Reference Bureau (LRB) to study issues related to the establishment of a Children's Trust Fund for the prevention of child abuse and neglect in Hawaii.

Your Committee finds that Hawaii is one of only two states which do not have a Children's Trust Fund to dedicate ongoing sources of funding for the prevention of child abuse and neglect. Your Committee further finds that Hawaii has been receiving federal Challenge grants since 1986 for innovative child abuse prevention and early intervention services, and these funds could be in jeopardy if a Children's Trust Fund is not established. Testimony in support of this concurrent resolution was received from the Departments of Education, Health, and Human Services; the Office of Children and Youth; and the Hawaii Children's Trust Fund Coalition comprising nineteen entities serving Hawaii's families.

Your Committee has amended this concurrent resolution by:

- (1) Asking the LRB to determine whether a Children's Trust Fund is necessary to maintain eligibility for Challenge grants;
- (2) Changing the word "Determine" to "Recommend" in the list of issues to be addressed; and
- (3) Asking the LRB to recommend whether the scope of the Children's Fund should be limited to child abuse and neglect or be expanded to include other programs which benefit children and youth.

Your Committee on Health and Human Services concurs with the intent and purpose of S.C.R. No. 244, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 244, S.D. 1.

Signed by all members of the Committee.

SCRep. 2559 Agriculture and Environmental Protection on H.B. No. 3085

The purpose of this bill is to amend Act 200, Session Laws of Hawaii 1991, to correct a drafting error that would allow the Director of Health to approve the disposal of used oil by dumping it on the ground after January 1, 1993.

Your Committee received testimony in support of the bill from the Department of Health (DOH).

This bill makes it clear that it was never the intent of the Legislature in enacting Act 200 to allow for the provisional dumping of used oil onto the ground.

Your Committee has amended the bill by extending both the deadline for adoption of rules concerning the requirements for field screening reports and the repeal date of Section 342N-30(c) until January 1, 1994.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of H.B. No. 3085, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3085, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2560 Tourism and Recreation on H.B. No. 3060

The purpose of this bill is to preserve and protect the beaches and coastal areas and the public's right to use them by the removal of unauthorized structures on State-owned beach lands at no cost to the State.

Your Committee heard testimony in support of this measure from the State Department of Land and Natural Resources, the City and County of Honolulu Department of Parks and Recreation, the Sierra Club, and the Environmental Center at the University of Hawaii at Manoa.

Your Committee finds that the existence of unauthorized structures on public beaches and coastal lands constitutes a public nuisance not only because it deprives the public of scarce beach lands but also because it causes erosion of the remaining beach in these areas. Your Committee believes that the removal of these unauthorized structures is in conformance with the State's commitment to preserving and protecting the public's right to use and enjoy these valuable natural resources.

Upon further consideration, your Committee has amended the bill by inserting language from Senate Bill No. 2737, S.D. 1, for purposes of clarity and flexibility.

Specifically, the bill, as amended:

- (1) Adds a provision that would exempt any structure built prior to January 1, 1970 from the bill's requirements in order to conform it with existing City and County Land Use Ordinances; and
- (2) Excludes buildings such as the Waikiki Natatorium, Camp Kailua, and the like from the definition of "structure."

Your Committee on Tourism and Recreation is in accord with the intent and purpose of H.B. No. 3060, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3060, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2561 Transportation and Intergovernmental Relations on H.B. No. 930

The purpose of this bill is to require that the courts impose a mandatory fine of \$25 but not more than \$500 and a mandatory picking up of litter for the offense of littering.

Your Committee finds that current penalties for littering are not serving as a deterrent to the public and it has become necessary to impose more stringent ones to keep Hawaii's environment clean.

Your Committee has amended the bill by deleting section 2 of the bill relating to penalties as it was already enacted into law last year.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of H.B. No. 930, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 930, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2562 Transportation and Intergovernmental Relations on H.B. No. 2312

The purpose of this bill is to prohibit unauthorized information on temporary motor vehicle number plates.

Your Committee finds that the purpose of these plates is to identify the owner of the new motor vehicle and indicate the expiration date of the temporary plate. Your Committee further finds that many new motor vehicle dealers include advertisements and "thank you" notes on these tags, which is not authorized by statute.

Testimony in support of this bill was presented by the City and County of Honolulu's Department of Finance and Police Department.

Your Committee has made amendments to the wording of this bill for correct statutory drafting.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of H.B. No. 2312, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2312, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2563 Transportation and Intergovernmental Relations on H.B. No. 2820

The purpose of this bill is to authorize the Department of Transportation to issue citations to consignees of containers transported on a motor carrier which violates statutory weight restrictions.

Your Committee finds that present law holds transportation companies responsible for ensuring that containers which they are transporting do not exceed the weight restrictions provided by law. Your Committee believes that the consignees of the containers should share responsibility for these violations. Testimony in support of this measure was presented by the Department of Transportation, and the Hawaii Transportation Association.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of H.B. No. 2820, H.D. 2, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2564 Consumer Protection and Business Regulation on H.B. No. 2493

The purpose of this bill is to require restaurants and retailers offering gift certificates to honor the certificates for an initial period of one year from the date of purchase and to allow two one-year extensions for redemption.

Testimony in support of the measure was submitted by the Department of Commerce and Consumer Affairs, the Retail Merchants of Hawaii, and the Hawaii Food Industry Association.

Your Committee finds that gift certificates, which have become very popular among the consuming public, are subject to varying time restrictions and printing formats which have often resulted in the failure to redeem the certificates in a timely manner. This bill would require all retail establishments that sell gift certificates for goods or services to make them redeemable for an initial minimum period of one year and extendable for a maximum of two years, and that the initial expiration date and the right to extend be printed on each certificate.

Your Committee believes that the standardization of practice and better notice to consumers intended by this bill will go a long way toward solving many of the problems that now exist with regard to these gift certificates.

Your Committee has amended the bill by reducing the extensions allowable from two one-year extensions to a one year extension and by making nonsubstantive technical amendments for the purposes of clarity and style.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of H.B. No. 2493, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2493, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2565 Consumer Protection and Business Regulation on H.B. No. 3282

The purpose of this bill is to permit financial services loan companies to sell accidental death and dismemberment policies, auto club memberships, and home and automobile security plans with the approval of the Commissioner of Financial Institutions.

Testimony in support of the bill was received from the Hawaii Financial Services Association, Inc.

Your Committee finds that the authority to sell accidental death and dismemberment insurance would enable financial loan companies to provide a class of insurance to their customers not readily available through traditional vendors of insurance and generally only available through direct mail. Additionally, allowing financial services loan companies to sell auto club memberships increases the availability of such services in Hawaii.

Your Committee has amended the bill by adding a new paragraph which allows financial services loan companies to sell fixed rate annuities if approved to do so by the Commissioner of Financial Institutions and the Insurance Commissioner and by making technical amendments which have no substantive effect.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of H.B. No. 3282, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3282, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2566 Consumer Protection and Business Regulation on H.B. No. 2720

The purpose of this bill is to provide activity desks the option of either posting a bond or a yearly irrevocable letter of credit naming the Director of Commerce and Consumer Affairs as the obligee or beneficiary in lieu of maintaining client trust accounts to provide more flexibility to the industry.

Specifically, the bill:

- (1) Requires that activity desks obtain at least \$50,000 in bond or irrevocable letter of credit coverage;
- (2) Stipulates that an activity desk posting a bond or an irrevocable letter of credit for the first time must initially obtain at least \$75,000 in coverage;
- (3) Requires all activity desks to register with the Department of Commerce and Consumer Affairs (DCCA) prior to engaging in commercial activities;
- (4) Authorizes a fine of \$100 for each day an unregistered activity desk is found to have conducted commercial operations;
- (5) Revises the period in which activity desks are required to make payment to activity providers from forty-five to thirty days; and

- (6) Requires the DCCA to submit a status report to the 1993 Legislature regarding the incidence of non-compliance with the provisions of this bill.

Testimony was submitted by the Department of Commerce and Consumer Affairs (DCCA), the Activity Owners Association, City Bank, U-Me Enterprises, Inc., Japan Hawaii Travel Association, Sheraton Travel Services, Polynesian Hospitality, Aloha 7 Travel, Noguchi and Associates, Inc., Classic Systems, Inc., Polynesian Adventure Tours, Fantasy Islands Activities and Tours, Inc., and Outrigger Hotels Hawaii.

In 1990, the Legislature found that there was a need to regulate the business practices of activity desks, or intermediaries between consumers and businesses that provide specialized tours, excursions, and activities. The Legislature enacted Act 214, Session Laws of Hawaii (SLH) 1990 to regulate the financial transactions and advertising practices of activity desks.

In 1991, your Committee found that problems regarding the solvency of activity desks and the prompt payment of fees to activity providers for services rendered were still unresolved. While your Committee endeavored to examine the possible establishment of bonding requirements for activity desks, your Committee was unable to fully incorporate these requirements into Act 240, SLH 1991, which among other things, amended Act 214, SLH and set forth provisions regarding the maintenance of and withdrawal from such accounts.

The bill attempts to establish such a bonding alternative in Act 240, SLH 1991.

Your Committee finds that:

- (1) A number of activity desks have filed for bankruptcy over the past year;
- (2) There should be an alternative to the client trust account, such as bonding or letters of credit;
- (3) DCCA has experienced difficulties in administering Act 280, SLH 1991 because of ambiguities between Act 280, SLH 1991 and Chapter 486L, Hawaii Revised Statutes (HRS) (Travel Agencies). The representative from DCCA testified that Chapter 486L, HRS, and Act 280, SLH 1991 may be separated if a registration requirement was added to Act 280, SLH 1991, and the definition of "travel services" in Chapter 486L, HRS, was revised;
- (4) A substantial number of activity desks have not registered as required under the travel agencies law; and
- (5) DCCA currently does not have any statistical data related to the compliance and non-compliance of laws regarding activity desks and activity providers.

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

- (1) Authorizing the DCCA instead of the Office of Consumer Protection to bring a civil suit against any unregistered activity desk;
- (2) Providing that the registration will expire on December 31 of each odd-numbered year;
- (3) Inserting provisions governing any remedies or penalties resulting from violations of this chapter; and
- (4) Making other nonsubstantive technical revisions for the purposes of clarity and style.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of H.B. No. 2720, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2720, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2567 Consumer Protection and Business Regulation on H.B. No. 2818

The purpose of this bill is to amend the laws relating to the regulation and licensure of nurses in the State by:

- (1) Requiring that a registered nurse or licensed practical nurse serving on the Board of Nursing (Board) maintain a valid license in good standing;
- (2) Providing that graduates of Board-approved foreign nursing schools are exempt from taking the Commission on Graduates of Foreign Nursing Schools (CGFNS) examination prior to applying for a nursing license;
- (3) Allowing graduates of Board-approved foreign nursing schools to apply for a nursing license if they have passed one of the English proficiency examinations prescribed in the rules adopted by the Board;
- (4) Requiring that the transcripts of graduates of Board-approved nursing schools in foreign jurisdictions be evaluated by professional evaluators designated by the Board;
- (5) Changing the renewal process by stipulating that licenses expire on June 30 of each odd-numbered year and requiring an applicant for renewal to apprise the Board of any disciplinary action taken against the applicant during the preceding biennium; and
- (6) Making various housekeeping revisions to Chapter 457, Hawaii Revised Statutes, for the purposes of clarity and style.

Your Committee heard testimony in support of this measure from the Board of Nursing, the Hawaii Nurses' Association, and the Healthcare Association of Hawaii.

Your Committee finds that the State is experiencing a serious shortage of registered nurses in Hawaii's hospitals and nursing homes. According to recent statistics, over 750 of the registered nursing positions in Hawaii's hospitals and residential care home facilities are vacant, equating to a shortage of more than 17 percent of the registered nursing positions at these facilities. Hospitals have had to cope with these shortages by closing bed space, working employees overtime, and recruiting nurses from the mainland or from other nations at a cost exceeding \$6 million per year.

While the Legislature has attempted to address the nursing shortage by supporting an assortment of programs geared toward expanding the number of locally trained nurses in the State, your Committee finds that there is a desperate need to satisfy the immediate demand for registered nurses at in-patient facilities. In light of this, your Committee believes that the provisions of this bill would immediately expand the supply of competent registered nurses in Hawaii by easing the licensing requirements for prospective nurses who have successfully graduated from a registered foreign nursing program.

Upon consideration, your Committee has amended the bill to further ease the licensing requirements for graduates of foreign nursing schools.

The bill, as amended:

- (1) Provides that graduates of Board-approved foreign nursing schools who are considered qualified by the Board and who have had their transcripts evaluated by professional evaluators designated by the Board are eligible to apply for a nursing license;
- (2) Exempts graduates of Board-approved foreign nursing schools from taking an English proficiency examination;
- (3) Provides that all credentials submitted by an applicant will be retained by the Board and will suffice as proof of graduation; and
- (4) Makes other nonsubstantive technical revisions.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of H.B. No. 2818, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2818, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2568 Consumer Protection and Business Regulation on H.B. No. 3018

The purpose of this bill is to:

- (1) Clarify the licensing requirements of optometrists;
- (2) Require applicants for optometry licenses pass the National Board of Examiners in Optometry's (NBEO) Clinical Skills Examination (CSE); and
- (3) Make various "housekeeping" revisions to Chapter 459, Hawaii Revised Statutes (HRS), for the purposes of clarity and style.

Testimony in support of the bill was received from the Board of Examiners in Optometry.

Your Committee finds that certain inconsistencies and ambiguities in Chapter 459, HRS, impede the State's ability to license and regulate the profession of optometry. For many years, the Board of Examiners in Optometry (Board) has developed and administered its own practical examination to measure the applicants' clinical skills. However, because of a "loophole" in the language of Chapter 459, HRS, the Board has been unable to prevent undertrained optometrists from practicing in the State.

Your Committee notes that while the current Board examinations may provide a cursory review of an applicant's knowledge of the basic skills of the profession, the examinations are not as intensive as the NBEO CSE. The representative from the Board of Examiners in Optometry testified that the NBEO CSE would not only more accurately test an applicant's skills, but would conform Hawaii State licensure requirements for optometrists with national standards. Revisions proposed in this bill will strengthen the profession of optometry by adopting national standards for the licensure of optometrists in Hawaii.

In addition, your Committee finds that while Section 459-7(f), HRS, requires all applicants successfully complete instruction in general and clinical pharmacology, the provisions of this section are outdated and unnecessary because pharmacology is included in the curricula of all accredited schools of optometry. Therefore, the bill also amends Chapter 459, HRS, by deleting references to the obsolete pharmacology training requirement.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of H.B. No. 3018, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2569 Consumer Protection and Business Regulation on H.B. No. 3034

The purpose of this bill is to clarify that the buyer in a consumer credit sale transaction may assert any claim or defense he or she has against the seller against the seller's assignee as well.

Your Committee received testimony in support of the bill from the Department of Commerce and Consumer Affairs.

Your Committee finds that the bill would prevent the seller in a credit sale transaction from effectively extinguishing any rights or defenses the buyer might have by assignment of the account to a third party.

Your Committee has amended the bill by removing the proposed language relating to a buyer's right of action against an assignee and making a technical, nonsubstantive amendment to correct a spelling error.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of H.B. No. 3034, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3034, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2570 Consumer Protection and Business Regulation on H.B. No. 3038

The purpose of this bill is to:

- (1) Codify the legislative mandate of Section 2 of Act 161, Session Laws of Hawaii (SLH) 1988, into Chapter 436E, Hawaii Revised Statutes (HRS); and
- (2) Clarify the authority of the Board of Acupuncture (Board) to develop and establish standards regarding the use of academic designations such as "Ph.D.", "Doctor", "D.Ac." and the prefix "Dr." in the practice of acupuncture.

Your Committee finds that the Legislature directed the Board to develop standards for the use of academic designations in the practice of acupuncture through the enactment of Act 161, SLH 1988. Since then, the Board has worked to develop and implement such standards and was in the process of finalizing the administrative rules when it was informed by the Office of the Attorney General that clear statutory authority should first be obtained before proceeding any further. The proposed amendments to Chapter 436E, HRS, would provide the Board with the needed authority to develop standards by clarifying that all licensing requirements must be met in order for a licensee to use the designation of "Doctor", "D.Ac.", or the prefix "Dr." in the practice of acupuncture, and that the use of these designations will be prohibited if requirements are not met after the time period set forth in rules adopted by the Board.

Testimony in support of this measure was received from the Board of Acupuncture, the Attorney General's office, and the Hawaii Federation of Physicians and Dentists.

Your Committee has amended this bill by:

- (1) Deleting language which authorizes the board to develop academic designations for other than doctoral degrees;
- (2) Providing that other titles, prefixes, or designations shall not be permitted; and
- (3) Making technical changes for the purposes of clarity and style which do not affect its substance.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of H.B. No. 3038, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3038, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2571 Consumer Protection and Business Regulation on H.B. No. 3358

The purpose of this bill is to strengthen the laws relating to unlicensed contracting.

Specifically, the bill proposes to: (1) raise the "handyman" exemption from \$100 to \$500 to update the statute with a realistic, inflation-adjusted amount; (2) allow verifiable self-employment experience as credit towards obtaining a contractor's license, provided that the experience was not obtained with the intent to circumvent the licensing laws; (3) raise the fine for aiding and abetting an unlicensed contractor and to make it easier to prosecute those who do; (4) extend the owner-builder exemption holding period from one to two years after completion and to prohibit a violator of the owner-builder exemption from registering as an owner-builder for a period of five years; and (5) provide a consumer with a thirty-day period in which to cancel a contract consummated by an unlicensed contractor in a door-to-door sale.

Your Committee finds that this bill will effect a necessary reduction in unlicensed contracting activity.

Your Committee has amended the bill by:

- (1) Further raising the licensing law exemption for "handymen" from \$500 to \$1,000;
- (2) Deleting the proposed extension of the owner-builder holding period from one to two years after completion; and
- (3) Making several nonsubstantive technical revisions.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of H.B. No. 3358, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3358, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2572 Planning, Land and Water Use Management on H.B. No. 3787

The purpose of this bill is to expressly endorse enactment of development impact fees by the counties.

The bill establishes broad guidelines for assessing the need for impact fees, imposition and collection, refunding in the event an impact fee ordinance is repealed, and other matters associated with such legislation.

Your Committee notes that this bill does not specifically authorize the counties to do anything they are not already empowered to do, but finds that it should be helpful to county councils contemplating enactment of such measures.

Your Committee has amended this bill by making numerous nonsubstantive technical changes for the purposes of style, clarity, and conformance with recommended drafting technique.

Your Committee on Planning, Land and Water Use Management is in accord with the intent and purpose of H.B. No. 3787, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3787, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2573 Planning, Land and Water Use Management on H.B. No. 3944

The purpose of this bill is to establish a "wilderness" land classification comprised of state-owned areas identified by the Land Use Commission.

Your Committee is sensitive to the compelling need to preserve certain areas of the State's "pristine environment" but prefers a more cautious approach. Therefore, your Committee has amended this bill by deleting its contents and inserting substantive provisions requiring the Office of State Planning to conduct a comprehensive study and evaluation of land use regulation and management in Hawaii and recommend ways to improve related laws and practices.

The study will encompass both state and county levels of government with input from a broad cross-section of the public and private sectors, and will focus on the State Constitution; Chapters 205, 183, and 46, Hawaii Revised Statutes; county charters; decision-making practices and procedures; jurisdictional issues; current land use classifications; organization of the current land use system structure; and specific agency roles.

The Office will incorporate its findings and recommendations into its first official report to the Land Use Commission pursuant to Section 205-18, Hawaii Revised Statutes, and submit a report to the Legislature prior to the convening of the 1994 Regular Session.

Your Committee on Planning, Land and Water Use Management is in accord with the intent and purpose of H.B. No. 3944, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3944, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2574 Judiciary on H.B. No. 1237

The purpose of this bill is to afford greater protection from tampering, interference, damage and unauthorized access to computer data, programs and hardware.

This bill repeals the current computer crime provisions and creates a new part in the Hawaii Penal Code. Unlike the current law, the new provisions do not provide for different grades of offenses and different penalties based on monetary values. The bill creates two new offenses called "computer fraud" and "unauthorized computer use," both of which are class C felonies without consideration of monetary loss.

Your Committee received testimony in support of the bill from the Honolulu Department of the Prosecuting Attorney, the Honolulu Police Department and the Hawaii Bankers Association. The Public Defenders Office submitted testimony in opposition to the bill.

In response to the testimony presented, your Committee amended the bill to further clarify the definitions and expand the offense of unauthorized computer use. More specifically, your Committee:

(1) Deleted, from the definition of "access", the phrase "by using a computer terminal or similar device" and added the word "computer". This amendment broadens the definition to cover all means of accessing a computer, computer system or computer network and the programs and data therein;

(2) Added a definition of computer;

(3) Deleted, from the definition of "disruption", the words "a business" and added "any computer, computer system or computer network". This amendment expands the definition by removing the language which limited its application to disruption of a business;

(4) Deleted, from the definition of "injury", the word "means" and added the word "includes". This amendment expands the definition of injury;

(5) Deleted the definitions of "service" and "victim expenditure" because they are unnecessary; and

(6) Added, in the section on unauthorized computer use, the words "alters, injures, disrupts." This amendment expands the scope of the offense of unauthorized computer use; and

(7) Made technical and clarifying amendments.

Your Committee is aware that there will be many occasions when acquaintances and fellow workers will access and use one another's computers, programs and data. Such access and use may even, at times, involve practical jokes which are not malicious. While such conduct may literally fall within the definition of one of the offenses in the new part, such de minimus acts are excluded by the application of section 702-236.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1237, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1237, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senator Tungpalan.

SCRep. 2575 Judiciary on H.B. No. 2307

This bill amends section 271-8.5, Hawaii Revised Statutes, by requiring a public utility to disconnect telecommunication service to a motor carrier that advertises in violation of state law. This bill also grants the utility immunity from a criminal or civil action arising from a good faith termination of services. The bill also makes technical, nonsubstantive amendments.

This bill is designed to provide an effective sanction against those who illegally advertise as licensed motor carriers.

Your Committee amended the bill by:

(1) Deleting the phrase "with or without limiting qualification" from section 271-8.5, since it is superfluous and confusing;

(2) Replacing the term "motor carrier" with "person", so the statute is not underinclusive;

(3) Providing that termination of a person's access does not occur until that person has received notice of the Public Utilities Commission's order or judgment;

(4) Providing that a public utility that complies with a notice to disconnect is immune from liability for damages resulting from its compliance.

Your Committee finds that the bill, as amended, adds further clarity to section 271-8.5.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2307, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2307, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senators Crozier and Tungpalan.

SCRep. 2576 Judiciary on H.B. No. 2507

The purpose of this bill is to provide a mechanism for people with psychotic disorders to direct their own treatment while they are capable of making such decisions and be assured that their decisions will be respected if they become impaired.

Patients with psychotic disorders may recognize that certain treatments, including medication, are helpful in their recovery. However, during periods of instability, they may be unable to rationally participate in treatment decisions. They may, in fact, oppose treatment as a consequence of their disorder. This bill will provide a way for these patients to plan ahead and make binding treatment decisions when they are most capable of doing so.

Your Committee received supporting testimony from the Department of Health, Hawaii Psychological Association, Hawaii Public Health Association, Mental Health Association in Hawaii, United Self-Help, Protection and Advocacy Agency of Hawaii and private citizens. There was no opposition to the bill.

Your Committee amended the bill to better effectuate its intent, eliminate superfluous language and minimize legal complications by deleting the following provisions:

(1) The notary requirement;

(2) The sample declaration form;

(3) The provision that invalidates the declaration of a pregnant patient;

(4) The requirement that all inpatient health care facilities develop a system to visibly identify when a patient's chart contains a declaration;

(5) The provision setting forth the procedures to be followed in the absence of a declaration; and

(6) The provisions preserving the existing rights of a patient, stating that the chapter creates no presumptions of intent, authorizing retroactivity and recognizing documents executed in another state.

The remaining provisions were renumbered accordingly.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2507, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2507, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Tungpalan.

SCRep. 2577 Judiciary on H.B. No. 2604

The purpose of this bill is to amend the law on enjoining and temporarily restraining harassers to provide that violations of such temporary restraining orders or injunctions are misdemeanors. Current law allows violations to be treated as either a misdemeanor or a petty misdemeanor at the discretion of the judge. This bill also mandates a jail sentence of forty-eight hours for a second violation, and thirty days for any subsequent violation.

Testimony in support of this measure was received from the Judiciary, the Department of the Attorney General, the Department of the Prosecuting Attorney of the City and County of Honolulu, the Hawaii State Commission on the Status of Women, the Hawaii State Committee on Family Violence, the Domestic Violence Clearinghouse and Legal Hotline, the American Association of University Women, Child and Family Service, Hawaii Women Lawyers, and the Police Department of the City and County of Honolulu. The Office of the Public Defender raised several concerns which your Committee has attempted to address.

Your Committee recognizes that increasingly severe penalties are necessary to deter some harassers. Unlike most offenses, which are completed in a single event, acts of harassment are often repetitious and, unless effectively deterred, can escalate in frequency and severity. This bill should increase the deterrent effect of the law.

Your Committee has amended this bill by:

- (1) Deleting the findings and purpose section;
- (2) Limiting the application of the mandatory incarceration provisions to violations of the section, instead of applying it to any injunction or restraining order issued under the chapter, as intended by the supporters;
- (3) Providing that a violation requires a "knowing or intentional" state of mind, rather than a "wilful" state of mind, in accordance with the states of mind defined in the penal code;
- (4) Removing language concerning a requirement that violators be required to remain "arrest-free" as a condition of suspension of a jail sentence, since the mere fact of an arrest is not sufficient proof of an offense and in its stead, adding a requirement that the violator remain "alcohol and drug-free";
- (5) Clarifying that mandatory jail sentences are only required for multiple violations of the same injunction or restraining order. Thus, a violation of a temporary restraining order and a subsequent violation of an injunction would not automatically result in a jail sentence. Of course, a judge has the discretion to sentence a person to jail for violation of an injunction or restraining order;
- (6) Clarifying that the mandatory jail sentence is only triggered upon a subsequent violation that occurs after a conviction for a prior violation. Thus, acts that were repeated prior to the determination that they were violations would not trigger a mandatory jail sentence. Jail would, of course, be an option.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2604, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2604, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Crozier and Tungpalan.

SCRep. 2578 Judiciary on H.B. No. 2678

The purpose of this bill is to raise the statutory annual principal fee charged by trustees of private non-charitable trusts, from 3/10 of 1% to 6/10 of 1%.

Your Committee received testimony in support of this measure from the Corporate Trustees Association of Hawaii, which outlined the rising costs of service rendered by such trusts and stated that raising the annual principal rate would bring Hawai'i in line with the fees charged in other states.

The bill was amended to reflect an increase in the annual principal fee to 5/10 of 1% instead of 6/10 of 1%. Your Committee finds that increasing the fees by this amount will make Hawaii's statutory trust fees comparable to the fees in other jurisdictions and is a fair rate when compared to the charges generally paid for trust services when the settlor and the trustee negotiate the rates.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2678, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2678, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Crozier and Tungpalan.

SCRep. 2579 Judiciary on H.B. No. 2850

The purpose of this bill is to require that the three examiners appointed to conduct a sanity examination meet the qualifications set forth by the Department of Health for certified forensic examiners.

The Department of Health, the Public Defender and the Honolulu Department of the Prosecuting Attorney testified in support of the intent of the bill.

As the Public Defender pointed out in his testimony, however, sections 704-404 and 704-414, Hawaii Revised Statutes, already provide for the appointment of the examiners from a list of certified sanity examiners as determined by the Department of Health. Therefore, presumably, an examiner would not be included in the list unless all prescribed qualifications were met.

In addition, the Department of Health stated that it is currently developing appropriate administrative rules, which should be completed within three months.

In light of the testimony, your Committee deleted the proposed amendments to the bill and included in the bill:

- (1) A reference in section 704-404(2) to section 465-3(4), which exempts psychologists employed under government certification or civil service rules from the licensure requirement. This is consistent with Act 314, 1986 Session Laws of Hawaii, which intended to include this language in sections of Chapter 704 that refer to licensed psychologists. See CONF. COM. REP. 51, 13th Haw. Leg., Reg. Sess., 1986 HOUSE J. 937; and
- (2) Other technical, nonsubstantive changes for purposes of clarity, consistency and style.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2850, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2850, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Crozier and Tungpalan.

SCRep. 2580 Judiciary on H.B. No. 2871

The purpose of this bill is to prohibit, except under limited conditions, the storing or keeping of a firearm on premises where a person under sixteen years old is likely to gain access without the permission of a parent or guardian. The bill also creates a new offense of criminally negligent storage of firearms, which is a class C felony.

Your Committee received supporting testimony from the Honolulu Department of the Prosecuting Attorney, the Honolulu Police Department, the Hawaii Public Health Association, the League of Women Voters of Hawaii, the Keiki Injury Prevention Coalition, the Hawaii Firearm Control Coalition, the Hawaii Chapter of Parents of Murdered Children and a private citizen.

However, concerns were expressed by the National Rifle Association, the Hawaii Rifle Association, the Hawaii Federation of Sportsmen and private citizens about the need or justification for imposing felony sanctions for negligent firearm storage.

Your Committee recognizes the danger posed to children by the unsafe storage of firearms but questions whether criminalizing negligent storage is the appropriate method of addressing this concern. Criminal laws generally serve two purposes: (1) punishment, which is appropriate for intentional conduct; and (2) deterrence, which is appropriate for criminal negligence, the focus of this bill. However, your Committee does not have sufficient information at this time to make a determination of the effectiveness of this type of measure as a deterrent; for example, whether there is evidence or statistics to show measurable deterrence in those states with similar laws?

Your Committee, therefore, deleted the sections pertinent to the negligent storage of firearms offense but retained the first section, which establishes a statutory basis for an element of negligence for purposes of civil liability. This is not intended to be an exclusive basis for civil liability since negligence can be established even if the statute were not violated.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2871, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2871, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Crozier.

SCRep. 2581 Judiciary on H.B. No. 3508

The purpose of this bill is to eliminate the harsh effects of the common law rule against perpetuities while maintaining the prohibition against perpetual nonvested future interests. This bill codifies the common law rule with a workable "wait and see" element and makes other conforming amendments.

The common law rule against perpetuities is unnecessarily complex, and courts have often adopted rules of construction to save devices of individuals whose attorneys failed to comply with all aspects of the rule. One of these rules is the "wait and see" rule, which defers invalidating a devise until the end of the permissible period for an interest to vest.

This bill essentially codifies the common law rule against perpetuities and includes the "wait and see" element that permits the deferral of vesting of an interest for a period not to exceed 90 years. The 90-year period represents the typical duration of a trust which satisfies the common law rule, as determined through an analysis of data obtained in a 1986 statistical study. This bill, if enacted, will provide a simple solution to an otherwise complex problem.

Testimony in support of the bill was submitted by Hawaii's Commission to Promote Uniform Legislation and two private individuals.

Your Committee deleted the portion of the bill that establishes exclusions from the statutory rule because no general exclusion from the common law rule is recognized for nondonative transfers, and testimony on the desirability of this portion of the bill was insufficient.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3508, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3508, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Crozier and Tungpalan.

SCRep. 2582 Judiciary on H.B. No. 3945

The purpose of this bill is to establish procedures to facilitate the admission of selected genetic test reports in parentage actions.

Under the bill, a court-ordered genetic test report that is performed in accordance with American Association of Blood Banks standards is admissible as evidence in a parentage action by affidavit attesting to the procedures followed in obtaining the report. A party objecting to the admission of the report has twenty days upon receipt of the report to file a motion showing good cause why a witness must be called to lay the foundation for the evidence. The court may, sua sponte or at a hearing on a motion, determine whether a witness is necessary to lay the foundation for the admission of the report. The right to call rebuttal witnesses, however, is reserved to all parties.

In support of the bill, the Hawaii County Office of the Corporation Counsel testified that there are several genetic tests utilized in parentage establishment, which have gained wide acceptance in the scientific community. This bill removes the high costs that would be incurred in flying over experts to lay the foundation for these otherwise reliable results.

The Office of the Public Defender expressed concern regarding the impact that this bill will have on Hawaii's evidence code. The Judiciary stated in oral testimony that the bill addresses the two foundational thresholds that must be met before a genetic or scientific test can be admitted as evidence: (1) whether the test is reliable; and (2) whether the test was performed correctly in a particular case? Both issues are handled by affidavit under this bill, thereby making such tests more available to litigants, who oftentimes can barely afford to pay for the test, let alone the cost of an expert.

Your Committee finds that this bill facilitates the expeditious and efficient resolution of parentage actions.

Your Committee amended the bill by deleting the requirement that the test be performed in a laboratory following the American Association of Blood Banks standards in response to the Judiciary's concern that this language may be too restrictive. Since this bill refers to court-ordered genetic tests, your Committee assumes that the tests will be performed in accordance with appropriate standards.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3945, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3945, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Crozier and Tungpalan.

SCRep. 2583 Judiciary on H.B. No. 3947

The purpose of this bill is to add a strict liability provision to sections 707-730 and 707-732, Hawaii Revised Statutes, pertaining to statutory sexual assault.

The existing law makes it a felony for a person to engage in sexual relations with a person known to be under the age of fourteen. This bill adds language stating that it is no defense that a defendant who is eighteen years or older, charged with sexual assault of a person under fourteen years old, lacked knowledge that the other person was under fourteen.

Testimony in favor of the bill was submitted by the Honolulu Department of the Prosecuting Attorney, Honolulu Police Department, Hawaii State Commission on the Status of Women, Hawaii State Coalition Against Sexual Assault, The Sex Abuse Treatment Center, Sex Abuse Treatment Program of the Kauai County YWCA, and Sex Abuse Interventions.

Proponents of the bill testified that children under fourteen years old do not have the maturity to appreciate the consequences of engaging in sexual contact or to meaningfully consent to such contact and therefore need to be protected.

The Office of the Public Defender expressed concern that the bill precludes a defendant from showing that the complainant pretended to be older or lied about their true age. The possible consequences include a class A felony conviction for a person who inadvertently engages in sexual relations with a prostitute who is less than fourteen, which

would otherwise be a petty misdemeanor prostitution offense. The Office of the Public Defender requested that the Committee, if inclined to report out the bill, reduce the age from fourteen to eleven.

Your Committee recognizes the need to protect young children from those who may take advantage of their immaturity. However, your Committee also recognizes that there are some adolescents who are sexually active to an unusual degree and is concerned about the imposition of a class A felony against the adolescent's partner in those situations. More specifically, your Committee is concerned about situations such as in *State v. Alexander*, 62 Hawaii 112, 612 P.2d 110 (1980), which concerned a thirteen year old prostitute. Although *Alexander* concerned the offense of promoting prostitution, it made your Committee aware that some children are sexually active to an extreme degree.

In light of these considerations, your Committee amended the bill by:

(1) Amending section 707-730, Hawaii Revised Statutes, so that it is not a defense to prosecution for sexual assault in the first degree (a class A felony), that the accused had no knowledge of the victim's age if the accused is an adult and the victim is less than twelve years old; and

(2) Amending section 707-732, Hawaii Revised Statutes, so that it is not a defense to prosecution for sexual assault in the third degree (a class C felony), that the accused had not knowledge of the victim's age if the accused is an adult and the victim is less than fourteen years old.

Under the new language, an adult who engages in any type of sexual contact with a person less than fourteen years old will be guilty of a class C felony, regardless of whether the adult knew the victim's age. However, if the adult engages in sexual intercourse with a person less than twelve years old, the offense becomes a class A felony.

Your Committee finds that the new language will better safeguard the interest of innocent children than does the current law, while appropriately recognizing those situations involving sexually active children, such as the thirteen-year old prostitute in *Alexander*.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3947, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3947, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Tungpalan, Koki and Reed.

SCRep. 2584 Legislative Management on H.B. No. 3698

The purpose of this bill is to include nurses in the permanent job-sharing program established pursuant to Act 244, Session Laws of Hawaii 1989. The bill also eliminates the requirement that the Office of the Legislative Auditor submit a 1993 status report to the Legislature on job-sharing.

Your Committee has reviewed testimony submitted in support of this measure from the Office of the Legislative Auditor and the Hawaii Government Employees Association.

Your Committee finds that job-sharing is one means of addressing the various employment needs of workers in the public sector. Act 244 inadvertently omitted bargaining unit (9).

Your Committee has made a nonsubstantive technical amendment to the bill.

Your Committee on Legislative Management is in accord with the intent and purpose of H.B. No. 3698, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3698, S.D. 1.

Signed by all members of the Committee.

SCRep. 2585 Agriculture and Environmental Protection on H.B. No. 2486

The purpose of this bill is to clarify the ownership of recyclable materials and to provide support for County efforts to reduce illegal scavenging of curbside and drop-off collection programs.

Testimony in support of the bill was submitted by the Department of Health and the Department of Public Works of the City and County of Honolulu.

Your Committee finds that businesses and private groups that operate their own recycling systems have had their recyclable materials removed from curbside and drop-off collection sites by unauthorized persons. The bill would prohibit unauthorized removal of recyclable materials from collection sites.

Your Committee finds that the provisions of the new section are more appropriately situated in Chapter 342H, Hawaii Revised Statutes (HRS), rather than in Chapter 340A, HRS, and has amended the bill accordingly. Your Committee has also added language making it clear that employees and agents of commercial waste generators and private recycling systems are authorized to handle recyclable materials belonging to these types of enterprises.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of H.B. No. 2486, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2486, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2586 Agriculture and Environmental Protection on H.B. No. 3074

The purpose of this bill is to authorize the Department of Agriculture to limit by rule the maximum amount of weed seed allowable in agricultural and vegetable seed offered for sale and to prohibit the sale of agricultural and vegetable seed with false or misleading labels. Currently, the department may regulate only "noxious" weed seed and has no explicit authority to prohibit the sale of seed with false or misleading labels.

The Department of Agriculture submitted testimony in support of the measure.

The testimony indicated that the bill is necessary because existing statutory provisions relating to the regulation of agricultural seed do not adequately protect the State and its consumers in the areas covered.

Your Committee has amended the bill to correct a grammatical error.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of H.B. No. 3074, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3074, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2587 Employment and Public Institutions on H.B. No. 1134

The purpose of this bill is to require the use of indigenous land plants in landscaping of state buildings, facilities, or housing.

Your Committee finds that Hawaii's indigenous plants are a prominent feature of native culture and offer scenic, medicinal, educational, environmental, and economic benefits to all residents that must be preserved. Considering the extent to which indigenous species are disappearing or becoming endangered, it behooves the State to take affirmative action. This bill will ensure that many species are protected and properly tended for the beautification of public buildings and the edification of the general public.

Your Committee has amended this bill by making nonsubstantive technical changes for the purposes of clarity and style.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of H.B. No. 1134, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1134, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2588 Employment and Public Institutions on H.B. No. 2131

The purpose of this bill is to enable employees to sue for damages arising out of intentional infliction of emotional distress, invasion of privacy, wrongful discharge, or negligence in connection with employment.

Civil action would be authorized in addition to any recovery awarded pursuant to the Workers' Compensation Law.

Current law provides that recovery under Workers' Compensation precludes recovery by any other means, except for awards by the Hawaii Civil Rights Commission to employees who are injured victims of sex discrimination, if they file a complaint within 180 days of the discrimination or last occurrence in a pattern of discrimination. If they fail to file with the Commission, they lose all subsequent right of action.

Your Committee finds that the intent of this bill is to enable civil actions arising from allegations of sexual harassment or sexual assault as a blanket exception to the Workers' Compensation exclusivity provision, and has amended the bill accordingly. In doing so, your Committee is retaining language relating to intentional infliction of emotional distress or invasion of privacy as they are prominent features of sex discrimination, can cause injury, and relate consistently to sexual harassment or assault.

As amended, an employee has the right to recover under Workers' Compensation for the above offenses if injured and compensatory and/or punitive damages are sought in a separate civil action. Within the first 180 days after the alleged injury, jurisdiction rests primarily with the Hawaii Civil Rights Commission; however, after 180 days but within the tort statute of limitations, the employee may file a civil action in a court of competent jurisdiction whether or not notice of right to sue has been issued by the Commission pursuant to chapter 368.

Your Committee finds that this provides an appropriate avenue for recovery for injuries arising out of sex-related misconduct in employment and trusts that the message is clear and unequivocal.

Your Committee has also made some technical changes that have no substantive effect.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of H.B. No. 2131, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2131, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2589 Employment and Public Institutions on H.B. No. 2479

The purpose of this bill is to exempt special service deputies of the Department of Public Safety from state and county parking meter fees and county time parking restrictions while engaged in law enforcement activities.

Your Committee finds that special service deputies are entrusted with important functions that generally require flexibility of movement and may require instant response. In this regard they bear responsibilities similar to those of police officers. Therefore, your Committee finds that this measure will increase the Department's effectiveness in providing for the public safety.

Your Committee has amended this bill by clarifying that the exemption applies only to state owned vehicles assigned to the Department of Public Safety. Your Committee has also made some nonsubstantive technical changes for the purposes of style and clarity.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of H.B. No. 2479, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2479, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2590 Employment and Public Institutions on H.B. No. 3051

The purpose of this bill is to increase the penalties for violations of Occupational Safety and Health provisions.

Specifically, the bill increases civil penalties for employer violations as follows:

- (1) For serious violations, non-serious violations, and violations of posting requirements - from a maximum fine of \$1,000 to a maximum of \$7,000 (discretionary in the case of non-serious violations);
- (2) For willful or repeated violations - from a maximum fine of \$10,000 to not less than \$5,000 nor more than \$70,000; and
- (3) For a willful violation resulting in death of an employee - from a maximum fine of \$10,000 and/or imprisonment for up to six months to a maximum of \$70,000 and/or imprisonment (up to one year in prison if the death occurs as the result of a repeated violation).

Criminal penalties for offenses against a department employee are increased as follows:

- (1) For a class A felony - from \$10,000 more than the Penal Code maximum to \$50,000 more;
- (2) For a class B felony - from \$5,000 more than the Penal Code maximum to \$25,000 more;
- (3) For a class C felony - from \$1,000 more than the Penal Code maximum to \$10,000 more; and
- (4) For a misdemeanor - from \$500 more than the Penal Code maximum to \$2,000 more.

The Occupational Safety and Health Act of 1970 requires states such as Hawaii that have a State Plan to provide standards of enforcement at least as effective as federal standards. Failure to do so will result in withdrawal of OSHA from state participation. This bill reflects federal minimum penalty standards provided in Section 17 of the Omnibus Reconciliation Act of 1990 and is therefore necessary to keep Hawaii's law current with federal requirements.

Your Committee has amended this bill by requiring the Director of Labor and Industrial Relations to submit annual reports to the Legislature on any citation, proposed penalty, or order contested by an employer, or an employee or union, the disposition of such cases, and information indicating whether the cases involved failure of a department employee to act within the scope of duty or authority.

The State's Department of Occupational Safety and Health (DOSH) Program has numerous mechanisms to protect Hawaii's employers from the exercise of arbitrary and capricious behavior by state Occupational Safety and Health Inspectors. The DOSH Field Operations Manual details proper policies and procedures that Inspectors must follow in carrying out their duties, and provides that the Inspectors who adhere to the policies and procedures are not "liable in or made a party to any civil action growing out of the administration or enforcement of this chapter."

No such protection exists for Inspectors who are found to have overstepped the boundaries of their authority in administering or enforcing the chapter.

The work of every DOSH inspector is reviewed by the immediate supervisor to ensure conformance with policies and procedures. Before issuance of a notice of violation, the branch manager for each compliance branch reviews the work of each inspector, thus providing a system of checks and balances in application of the safety and health laws. Employers who are dissatisfied with a citation or penalties, or with the conduct of an Inspector, may request an informal conference with the DOSH administrator and, if still not satisfied with the decision of the administrator, may contest the order to the DLIR Appeals Board. They may also appeal Board decisions to the circuit court, the State Supreme Court, and the U.S. Supreme Court.

Your Committee has also made nonsubstantive technical changes for the purposes of clarity and style.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of H.B. No. 3051, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3051, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2591 Employment and Public Institutions on H.B. No. 3067

The purpose of this bill is to ensure that public employees appointed on a temporary basis are fully qualified before entering the civil service on a permanent basis.

Current law requires a probationary period prior to membership in the civil service on a permanent basis. However, a temporary employee moved into a permanent position without a break in service automatically has the probationary period shortened by the time served on a temporary basis, and in many cases this requires granting of permanent status with no probationary period at all.

This bill gives discretion to the appointing authority regarding movement of the employee into the permanent position and diminution of the probationary period, and sets as minimum criteria that the employee has performed satisfactorily and the duties of the permanent position are similar to those of the temporary appointment.

Your Committee finds that the discretionary flexibility provided by this measure will afford ample opportunity for entry into the civil service from a temporary appointment while ensuring that only qualified individuals are allowed to do so.

Your Committee has amended this bill by making technical changes that have no substantive effect.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of H.B. No. 3067, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3067, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2592 Employment and Public Institutions on H.B. No. 3215

The purpose of this bill is to clarify the jurisdiction of county fire departments over state or county owned or operated buildings and premises.

Case law and Attorney General opinions clearly establish that a county fire department may not administer or enforce fire code provisions in connection with state owned or operated buildings or premises unless they are specifically authorized to do so by statute. This bill provides that authority.

The bill also authorizes county Fire Chiefs to fine the State up to \$1,000 per day for each day in which a fire code violation persists in a state owned or operated building or premises.

Your Committee finds that this bill will strengthen the ability of the county fire departments to enforce the fire code and protect the general public from fire and fire hazards.

Your Committee has amended this bill by changing the fine to \$100 per day with a ten day grace period, and by restoring the language on page one, line 7, that prohibits firefighting authorities from entering the interior of private dwellings to make inspections unless there is compelling and immediate cause to do so. The U.S. Supreme Court has held that entering without immediate cause constitutes an illegal search.

Your Committee has also amended this bill by deleting references to county buildings (already under the jurisdiction of county fire departments) and by making several nonsubstantive technical amendments for the purposes of clarity and style.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of H.B. No. 3215, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3215, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2593 Employment and Public Institutions on H.B. No. 3246

The purpose of this bill is to provide that money reimbursable to public employees for work-related expenses shall accrue interest at twelve percent per year if not paid within one month.

Current law provides that contractors must be paid by the public contracting agency within thirty calendar days or interest will start accruing. Your Committee finds that employees who contribute out-of-pocket expenses in connection with work should likewise benefit from this incentive for employers to pay their debts on time.

Your Committee has amended this bill by providing that interest owed shall be automatically paid without a specific request, regardless of the amount.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of H.B. No. 3246, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3246, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2594 Employment and Public Institutions on H.B. No. 3400

The purpose of this bill is to require demonstration housing projects developed pursuant to Section 46-15, Hawaii Revised Statutes, and housing developed pursuant to Chapter 201E, to comply with the provisions of Section 104-2 relating to minimum pay for laborers and mechanics.

The bill also clarifies that the provisions relating to minimum pay on public works projects apply only on a contract by contract basis, and that the terms of one public work contract are mutually exclusive of the terms of any other public work contract.

A public work is any project that is financed to any extent by public revenues or tax exempt bonds or securities and includes refurbishment of real or personal property; however, housing projects developed by nonprofit corporations and costing less than \$500,000 are exempted. These provisions are applicable to any contract for a public work under consideration but not executed as of the effective date of this bill.

The bill also includes a definition of "government contracting agency."

Your Committee finds that this bill will conform Hawaii law to an Attorney General's opinion and more clearly express the intent of the statutes under consideration.

Your Committee has amended this bill by providing that increases in wages for laborers and mechanics on public works projects, based on determination of prevailing wages for laborers and mechanics in similar contracts in the State, shall be built into public work contracts or provided regardless of the terms of the original contract.

Your Committee has also made several nonsubstantive technical changes for the purposes of clarity, style, and conformance with recommended drafting technique.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of H.B. No. 3400, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3400, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2595 Employment and Public Institutions on H.B. No. 3424

The purpose of this bill is to include as public information the specific salaries of employees of the Department of Education and the University of Hawaii.

Current law protects the exact salaries but provides for public disclosure of the salary ranges paid to civil servants, including Department and University personnel.

Your Committee finds that it is appropriate to make public the salaries of the University President and the high echelon of administration, since these amounts are not strictly subject to ranges and caps as are the salaries of University employees in bargaining unit (8) and Department of Education personnel. Since bargaining unit (8) and Department personnel are subject to salary ranges, your Committee cannot see how making public the exact amount within the salary range earned by each employee will serve the public interest. Your Committee has amended this bill accordingly.

Your Committee has also amended this bill by making technical changes that have no substantive effect.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of H.B. No. 3424, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3424, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2596 Employment and Public Institutions on H.B. No. 3457

The purpose of this bill is to require the Comptroller to sell surplus state personal property to the general public.

Notice will be given by newspaper for three weeks or posted in conspicuous places, and proceeds would be either deposited to the credit of the General Fund or in the State Surplus Property Revolving Fund.

The bill also requires public officials to identify in their annual inventories items of property not being used as well as items acquired and disposed of.

Current law requires proceeds from public sales of surplus state property to be deposited into the State Surplus Property Revolving Fund and expended to enable the storage and sale of the next year's lot. However, the statutes are silent regarding the obligation of the Comptroller to conduct sales and specific means by which the items are to be offered to the general public. This bill provides sufficient requirements and procedures to ensure regular and proper disposal based on complete inventories.

Your Committee has amended this bill by clarifying that the Comptroller is authorized to sell the property by whatever means is appropriate rather than solely to the highest bidder (by auction). Your Committee has also deleted reference to Section 106-22, Hawaii Revised Statutes (requiring deposit of public sale proceeds in the General Fund) because it is the intent of this measure that all proceeds be deposited in the State Surplus Property Revolving Fund enacted in 1987 specifically to receive these moneys.

Your Committee has also made several nonsubstantive technical changes for the purposes of clarity and style.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of H.B. No. 3457, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3457, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2597 (Majority) Employment and Public Institutions on H.B. No. 3466

The purpose of this bill is to make unlawful discrimination in employment because a person tests HIV positive.

Present law provides that discrimination in employment because of a person's handicapped status is unlawful. This bill specifies HIV infection as a handicap and so brings persons who test HIV positive under the protections afforded by Chapter 378, Hawaii Revised Statutes.

Your Committee finds that HIV infection is a handicap and should not be allowed as a basis for negative discrimination in the labor market.

Your Committee has amended this bill by adding a new section to Chapter 378 that makes it unlawful for an employer to discriminate against an employee or prospective employee because the individual engages in a legal activity unrelated to work that the employer does not like. However, the employee has to comply with applicable laws or policies regulating such activities on the employer's premises during working hours, and activities that would materially threaten a legitimate conflict of interest policy, or relate to a bona fide occupational requirement, or adversely affect the person's ability to do the job, are not protected. These provisions do not apply to police officers who are responsible for their conduct twenty-four hours a day, seven days a week, whether on duty or off.

Your Committee finds that an employer's authority over an employee or prospective employee should not include the right to impose personal preferences or prejudices. This bill will protect individuals from unwarranted intrusion into their private lives or extortion by employers who would enforce their personal prejudices through unjustified restrictions on a person's employment or employability.

Your Committee has also amended this bill by making technical changes that have no substantive effect.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of H.B. No. 3466, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3466, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yamasaki.
Senator Koki did not concur.

SCRep. 2598 Employment and Public Institutions on H.B. No. 3467

The purpose of this bill is to prevent employment discrimination against employees who join in or support a strike.

Specifically, the bill addresses both the public and private sectors and makes it unlawful to replace or give negative preference to an individual who went out on strike or supported the union's collective bargaining or mutual aid or protection activities during a strike.

It is well established in this State that workers have the right to strike to better their working conditions. This right extends to both the public and private sectors, except for essential public employees. Therefore, your Committee finds that this bill articulates long-standing policy and protects the ability of unions to effectively advocate for their members.

Your Committee has amended this bill by clarifying that public employers do not have the right to replace nonessential strikers after the dispute is ended. Essential employees should not be affected by a public sector strike because they are obligated by law to remain at work.

Your Committee has also amended this bill by making nonsubstantive technical changes for the purposes of clarity and style.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of H.B. No. 3467, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3467, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yamasaki.

SCRep. 2599 Employment and Public Institutions on H.B. No. 3470

The purpose of this bill is to require the Hawaii Labor Relations Board to render its decisions on allegations of prohibited practices within sixty days after conclusion of the hearing.

Current law provides no time limit.

Your Committee finds that Board decisions relating to prohibited practices, inasmuch as they involve issues such as back pay, require prompt attention. This bill will ensure expeditious handling of such matters.

Your Committee has amended this bill by changing the time limit to ninety days and providing for extensions for good cause if all parties agree. Your Committee has also made some nonsubstantive technical changes for the purposes of clarity and style.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of H.B. No. 3470, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3470, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2600 Employment and Public Institutions on H.B. No. 3533

The purpose of this bill is to authorize contracting officers to disqualify contractors from receiving further public contracts for three years if their work is substandard.

The disqualification would commence after written notice stating the reasons for the action and notifying the contractor of the right to appeal pursuant to the contested case provisions of Chapter 91, Hawaii Revised Statutes. Failure to meet completion schedules is an example of substandard work. An appeal will not serve to stay the disqualification.

Your Committee finds that contracting officers should have this authority in order to effectively carry out their fiduciary responsibilities regarding expenditure of public moneys.

Your Committee has generally rewritten this measure for the purpose of clarity and has reduced the disqualification period to two years.

Your Committee on Employment and Public Institutions is in accord with the intent and purpose of H.B. No. 3533, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3533, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2601 Transportation and Intergovernmental Relations on H.B. No. 1180

The purpose of this bill is to increase the statutory amounts that a towing company may charge for towing and storing vehicles removed from private property.

Your Committee finds that the amounts towing companies are currently permitted to charge for the removal and storage of vehicles from private property are unfair and inadequate.

Your Committee has amended the bill by decreasing the amounts that may be charged for towing a vehicle.

The bill has also been amended to include amounts a towing company may charge if an owner appears to claim the vehicle after the tow truck is already in position to remove the vehicle from the property.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of H.B. No. 1180, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1180, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yamasaki.

SCRep. 2602 Transportation and Intergovernmental Relations on H.B. No. 2302

The purpose of this bill is to require that the feasibility of off-hour construction and off-hour maintenance work be considered for all public contracts and maintenance work that result in significant traffic congestion or delay. The bill also clarifies the definitions of "off-hour construction" and "off-hour maintenance work" to mean construction and maintenance work, respectively, that is performed between the hours of six o'clock p.m. and six o'clock a.m.

Your Committee heard testimony in support of this measure from the State Department of Transportation and the City and County of Honolulu Department of Public Works.

Your Committee finds that this bill is consistent with the public policy of encouraging the use of all reasonable means to minimize traffic congestion on the State's roadways. Although off-hour construction or maintenance may not be feasible in most residential areas, it should certainly be utilized where appropriate.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of H.B. No. 2302, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yamasaki.

SCRep. 2603 Transportation and Intergovernmental Relations on H.B. No. 2308

The purpose of this bill is to allow a person to obtain a Hawaii driver's license without having to permanently surrender his or her foreign driver's license.

Return is authorized only upon invalidation of the foreign license in Hawaii and notification of the foreign issuer that the person is now licensed in Hawaii. These provisions apply to all foreign licenses except those issued by a Canadian province.

Current law requires an applicant for a Hawaii driver's license to surrender all other licenses in his or her possession.

Your Committee finds that this measure is necessary to protect the driving rights of foreigners upon return to their own country. In many instances these individuals, if they have remained abroad more than a year, are required to surrender their Hawaii licenses upon return and reapply for a new license. This inconvenience can easily be avoided by allowing them to retain their foreign license in an invalid status while driving in Hawaii; then, when they return home, they will still be licensed.

Your Committee has amended this bill by making nonsubstantive technical changes for the purposes of clarity and style.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of H.B. No. 2308, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2308, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yamasaki.

SCRep. 2604 Transportation and Intergovernmental Relations on H.B. No. 3046

The purpose of this bill is to provide for a mandatory fine for violation of motor vehicle weight restrictions.

Currently, the law provides for a discretionary fine.

Your Committee finds that overweight vehicles cause considerable damage to our roads and highways. Stricter application of the penalties for violations should help address the problem.

Your Committee has amended the bill by changing the effective date from upon approval to January 1, 1993, or upon completion of the construction projects in the Sand Island area where the department of transportation's scales are located whichever occurs later. This action was taken to give special consideration to motorists until proper facilities for load adjustments in the Sand Island area have been completed.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of H.B. No. 3046, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3046, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yamasaki.

SCRep. 2605 Transportation and Intergovernmental Relations on H.B. No. 3563

The purpose of this bill is to give the Hawaii Housing Authority the power to certify and remove derelict vehicles from property owned, managed, or operated by the Hawaii Housing Authority.

Currently, only the City and County of Honolulu has the authority to certify that vehicles on Hawaii Housing Authority property are derelict and it has recently ceased to do so. Because towing companies are reluctant to remove derelict vehicles without certification, the Hawaii Housing Authority needs the power to certify them to have them removed.

Your Committee has amended the bill by requiring that a notice be conspicuously posted on the vehicle prior to its removal.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of H.B. No. 3563, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3563, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yamasaki.

SCRep. 2606 Transportation and Intergovernmental Relations on H.B. No. 3746

The purpose of this bill is to provide statutory guidelines for the issuance of driver's licenses to persons with epilepsy.

The bill provides that a person with epilepsy is entitled to a driver's license if he or she is seizure-free for not less than six months, the person's personal physician and a neurologist approve the granting of the license, and all other applicable requirements are met. For the first ten years after issuance, the license will expire and have to be renewed every two years. Thereafter, the license will be subject to the expiration and renewal provisions of Section 286-106, Hawaii Revised Statutes.

Your Committee finds that denying the issuance of a license to a person with epilepsy who is otherwise capable of driving safely is a form of discrimination that cannot be condoned. The safeguards built into the bill are adequate to ensure that persons granted licenses pursuant to it will not constitute an unreasonable risk of harm to other persons or property. This being the case, your Committee strongly favors the bill.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of H.B. No. 3746, H.D. 2, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yamasaki.

SCRep. 2607 Transportation and Intergovernmental Relations on H.B. No. 3963

The purpose of this bill is to exempt rental or U-drive motor vehicles from safety inspection requirements for the first 364 days beginning on the day the car was manufactured.

Current law provides that these vehicles must be inspected every six months regardless of age.

Your Committee finds that the industry and the City and County of Honolulu are confident that exempting these vehicles from the first six month inspection will perpetrate no harm on the general public. Your Committee agrees that rental and U-drive companies are generally conscientious about the upkeep of their vehicles, and finds that the first six month inspection is not necessary to protect the public safety.

Your Committee has amended this bill by clarifying that the first inspection must be made one year after the car has been registered by the company, and every six months thereafter. One car might be registered and put into service within days after manufacture and show many thousands of miles of use by its first birthday, while another might not be sold for many months and would be relatively unused during its first twelve months. The safety inspection required by law is intended to protect the public from unsafe vehicles, and assumes a close relationship between a vehicle's condition and the length of time it has been in service. However, length of service may be confidently determined by age alone only after the passage of considerable time, and not necessarily by the age of the vehicle measured from its date of manufacture through a period of only twelve months.

Your Committee on Transportation and Intergovernmental Relations is in accord with the intent and purpose of H.B. No. 3963, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3963, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yamasaki.

SCRep. 2608 Agriculture and Environmental Protection on H.B. No. 2336

The purpose of this bill is to require Hawaii's newspaper publishers with a circulation over twenty-five thousand per week to utilize newsprint containing recycled paper in the publication of their newspapers.

Testimony in support of the bill was received from the City and County of Honolulu and the Sierra Club.

Specifically, the bill requires all newspapers with a circulation of twenty-five thousand or more per week to utilize at least ten percent post-consumer waste fiber in their annual aggregate fiber content by 1994. This requirement shall increase to fifteen percent in 1996, twenty percent in 1998, and twenty-five percent in 2000. Newspapers need not comply with these requirements under certain circumstances, including the unavailability of recycled newsprint at a price within five percent of the net price of virgin paper.

Your Committee finds that the making of paper consumes resources such as energy, water, and forest products. Furthermore, post-consumer paper waste takes up valuable landfill space each year. In order to conserve resources and landfill space, your Committee finds that recycling and waste reduction programs are appropriate.

Your Committee has amended the bill by deleting the purpose section of the bill, leaving blank the required amount of post-consumer waste fiber to be utilized in newsprint by the year 2000, and by leaving blank the percentage differential between the cost of virgin and recycled newsprint. Your Committee has further amended the bill by deleting the reporting requirements imposed on the suppliers and consumers of newsprint, and by making nonsubstantive technical amendments for the purposes of clarity and style.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of H.B. No. 2336, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2336, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2609 Culture, Arts and Historic Preservation on H.B. No. 3772

The purpose of this bill is to establish Hui Na Maka o Mo'okini State Monument on the island of Hawaii for educational, cultural and religious purposes and to return all state lands within and adjacent to the monument to the Department of Land and Natural Resources for inclusion therein.

Testimony received by your Committee was overwhelmingly in favor of the measure. Members of the Kohala community and the Office of Hawaiian Affairs strongly supported the bill. The Department of Land and Natural Resources testified that it will work to acquire private lands for inclusion in the monument through gifts or land exchanges. The private owner of land adjoining Mo'okini Heiau and the Kamehameha birthsite indicated that it supports their preservation and will work with the State in negotiating land exchanges or agreements utilizing other means to establish this state monument.

Your Committee finds that Mo'okini Heiau, which in 1963 became the first site in Hawaii to be recognized by the federal government as a registered national historic landmark, is revered by native Hawaiians as a sacred place of immeasurable historic and cultural significance. The structure and setting of this Heiau, and Kukuipahu as well, provide insight into the spirituality of the Hawaiian people, their profound appreciation of natural beauty, and the essential role of worship in their life activities.

In 1972, the Kohala Historical Society recommended that the State acquire the coastal lands from Huinamaka to Kalaelimukoko to preserve stones and sites along the shore that have legendary associations. The inland boundary would extend far enough above the Heiau to protect the area where the houses of the Mo'okini priests who presided at the Heiau and the graves of the Mookini family, whose unbroken family line continues to the present time, were located. In 1978, the Mo'okini Heiau and the Kamehameha birthsite were donated by private landowners to the State for the enjoyment of the people of Hawaii.

Your Committee finds that the intent of this bill is to fulfill the wishes of the community and the purposes for which the lands were donated, and to enhance and preserve the legacy and legends of Kamehameha and the people of Kohala. Your Committee strongly believes that the incorporation of these sites into the monument is absolutely necessary to ensure their preservation and proper interpretation for present and future generations.

Your Committee has amended this bill by adding provisions that:

- (1) Change the name of the monument to Kohala Historical Sites State Monument;
- (2) Designate the Mahukona sites for inclusion upon acquisition by the State;
- (3) Provide that the State eventually acquire private lands through gifts or land exchanges to allow the privately owned Mahukona historical sites to be included within the monument and to provide sufficient surrounding lands to buffer all monument sites and provide public access thereto; and
- (4) Change the description of the real property to be included within the monument.

Your Committee on Culture, Arts and Historic Preservation is in accord with the intent and purpose of H.B. No. 3772, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3772, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2610 Ways and Means on H.B. No. 3672

The purpose of this bill is to provide health care coverage for emergency hires of the State who are employed for at least four consecutive weeks and have worked at least twenty hours in each of those weeks.

Currently, while most emergency hires work full-time schedules, their temporary status precludes them from participating in health care coverage offered to permanent full-time state employees. The emergency hires provide an array of necessary human resources to meet the demands for government services.

Your Committee has changed the effective date of the bill, as well as the benefit implementation date, to July 1, 1993 to coincide with the State's fiscal year.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3672, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3672, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2611 Ways and Means on H.B. No. 3982

The purpose of this bill is to implement the Diamond Head State Monument Plan of 1979. Specifically, this bill:

- (1) Includes additional lands, such as the portion of Diamond Head Road lying between Beach Road and Kahala Avenue, in the Diamond Head State Monument;
- (2) Repeals the provision excepting from inclusion in the Diamond Head State Monument land upon which is situated a structure in active use for the purposes originally disposed of;
- (3) Requires the Diamond Head State Monument Plan of 1979 to serve as the official document setting forth the future direction of the Diamond Head State Monument;
- (4) Allows the board of land and natural resources to amend the monument plan with the review and recommendations of the Diamond Head citizen advisory committee;
- (5) Prohibits the expansion of buildings and other structures and construction activity within the boundaries of the Diamond Head State Monument;
- (6) Provides that the board of land and natural resources may permit improvement projects that are consistent with the Diamond Head State Monument Plan of 1979 to take place within the boundaries of the Diamond Head State Monument;
- (7) Withdraws from the operation of Act 138, Laws of the Territory of Hawaii 1913, so much of the transfer from the State to the city and county of Honolulu, as relates to the transfer of the Honolulu water and sewer works at the abandoned reservoir parcels identified by Tax Map Key Number 3-1-35:22 and 23;

- (8) Reverts to and vests in the State on July 1, 1992, the right, title, and interest of the city and county of Honolulu relating to the abandoned reservoir site identified by Tax Map Key Number 3-1-35:22 and 23, appurtenant to the water and sewer works;
- (9) Allows the governor to withdraw those certain lands included within the boundaries of the Diamond Head State Monument as set aside by:
 - (A) Executive Order No. 1832, for use by the Federal Aviation Administration (FAA); and
 - (B) Executive Order No. 1997, under the control and management of the department of defense (DOD);
- (10) Allows the department of land and natural resources to execute leases with the FAA and the DOD for terms that are not to extend beyond January 1, 2000, for the purpose of providing the FAA and the DOD time to relocate their facilities outside the Diamond Head State Monument;
- (11) Prohibits the FAA and the DOD from expanding their existing uses and facilities within the Diamond Head State Monument;
- (12) Appropriates the sum of \$200,000, to the department of land and natural resources, for fiscal year 1992-1993, for improvements to the Diamond Head trail system in the Diamond Head State Monument area, and provides that the improvements are to conform to the Diamond Head State Monument Plan of 1979; and
- (13) Appropriates the sum of \$75,000, for fiscal year 1992-1993, for the department of land and natural resources to develop plans for the relocation of the Hawaii national guard and FAA facilities from Diamond Head Crater to a suitable location elsewhere on the island of Oahu.

Your Committee has amended this bill by:

- (1) Deleting the provision that includes the portion of Diamond Head Road lying between Beach Road and Kahala Avenue, in the Diamond Head State Monument;
- (2) Adding a provision to exclude Diamond Head Road from the Diamond Head State Monument;
- (3) Changing the sums appropriated to the department of land and natural resources for fiscal year 1992-1993, from \$200,000, and \$75,000, respectively, to unspecified amounts; and
- (4) Making technical, nonsubstantive amendments.

Your Committee finds that this bill will assist ongoing efforts to establish a semi-wilderness park within Diamond Head Crater.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3982, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3982, H.D. 1, S.D. 2.

Signed by all members of the Committee.

SCRep. 2612 Ways and Means on H.B. No. 3071

The purpose of this bill is to establish a grant program administered by the state foundation on culture and the arts for qualified for-profit and nonprofit organizations.

This bill promotes culture, arts, and the humanities by providing standards and procedures by which the state foundation of culture and the arts can disburse and allocate public funds for grants. Grants under this program would serve to enrich Hawaii's communities through activities and artistic endeavors which could not be sustained without legislative support.

After due consideration, your Committee has amended this bill to:

- (1) Allow individuals to qualify for grants;
- (2) Ensure that the foundation's grant program is consistent with the grants awarded under chapter 42, Hawaii Revised Statutes, by:
 - (A) Adding a proviso to paragraph (1) of the section relating to conditions for foundation grants prohibiting nonprofit organizations from employing or contracting two or more relatives unless specifically permitted by the foundation; and
 - (B) Adding to the section relating to monitoring and evaluation, a requirement that the foundation develop procedures and adopt rules for monitoring and evaluating grant contracts, and deleting the provision relating to payment of funds which is already in the section relating to contracts;
- (3) Authorize the foundation rather than the comptroller to grant exceptions to the one-year experience requirement for organizations applying for grants;

- (4) Require only that a written description of the activity or program be included in the application by deleting the reference to a video presentation;
- (5) Require that the appeal process available to grant applicants be as provided in the foundation's administrative rules rather than as provided in the Hawaii Administrative Procedure Act;
- (6) Require that grant contracts be executed in accordance with the foundation's administrative rules and no later than ninety days after receipt of a foundation-approved revised service proposal or certification that there have been no programmatic or budgetary changes to the application;
- (7) Add definitions for "individual", "nepotism", and "perquisite";
- (8) Retain the current language in section 9-3, Hawaii Revised Statutes, making the duties of the foundation mandatory; and
- (9) Correct the language added to section 9-3(2), Hawaii Revised Statutes, by replacing "purchase of service" with "grant" and "will" with "shall".

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3071, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3071, H.D. 1, S.D. 2.

Signed by all members of the Committee.

SCRep. 2613 Ways and Means on H.B. No. 3076

The purposes of this bill are to:

- (1) Appropriate an additional \$15,000,000, to the department of health, for fiscal year 1991-1992, for operating expenses for community hospitals; and
- (2) Require the department of health to submit a status report to the legislature on the financial condition of the community hospitals and the implementation of the legislative auditor's recommendations not later than 20 days prior to the convening of the regular session of 1993.

This bill is recommended by the governor for immediate passage in accordance with Section 9 of Article VII of the Constitution of the State of Hawaii. The appropriation contained in this bill will cause the state general fund expenditure ceiling for fiscal year 1991-1992, to be exceeded by \$15,000,000, or 0.53 per cent, as determined by the legislature in accordance with Section 9 of Article VII of the Constitution of the State of Hawaii and sections 37-91 and 37-93, Hawaii Revised Statutes.

Your Committee has amended this bill by:

- (1) Clarifying that the appropriation contained in this bill will cause the state general fund expenditure ceiling for fiscal year 1991-1992, to be exceeded by 12.4 per cent, rather than 0.53 per cent;
- (2) Clarifying that Act 296, Session Laws of Hawaii 1991, appropriated a designated sum to the department of health to provide funds for public hospitals and medical services under the division of community hospitals for the fiscal period ending June 30, 1993, rather than June 30, 1992;
- (3) Deleting the provision discussing the legislature's findings with respect to:
 - (A) The cause of the present funding emergency;
 - (B) The financial administration of the community hospitals; and
 - (C) The timely collection of revenues and outstanding debts;
- (4) Deleting the provision requiring the department of health to submit a status report to the legislature on the financial condition of the community hospitals and the implementation of the legislative auditor's recommendations prior to the regular session of 1993; and
- (5) Adding a provision subjecting the sum appropriated to the following requirements:
 - (A) As soon as possible after the effective date of this bill, the department of health is to meet in good faith in a series of meetings with private sector health care facility operators, including operators of private hospitals, insurance providers, private health care administrators, and private health care professionals, to avail itself of the private sector's collective knowledge and expertise for the operation of the community hospitals and the effective and efficient administration and financial management of the community hospitals system; and
 - (B) Based on the abovementioned meetings, the department of health is to report its findings to the legislature not later than September 30, 1992. The report is to include:
 - (i) The private sector's specific suggestions and recommendations for improving the administration and management of the community hospitals system and provide concrete, specific, and detailed steps for the immediate implementation of these suggestions; and

- (ii) Drafts of proposed legislation, if appropriate.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3076, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3076, H.D. 1, S.D. 2.

Signed by all members of the Committee.

SCRep. 2614 Ways and Means on H.B. No. 3090

The purpose of this bill is to extend the operation of the governor's blue ribbon panel on health care.

This bill extends the repeal date of Act 291, Session Laws of Hawaii 1990, which established the panel, to December 31, 1992. The bill also includes mental health as a component of health care to be examined by the panel.

Your Committee finds that the blue ribbon panel has been appointed to examine the financial and economic dynamics of the health care system in Hawaii and is currently synthesizing the data it has collected. Your Committee finds that additional time is required for the panel to complete its recommendations and to submit its report for public review and comment. Your Committee further finds that, based on budget information submitted by the panel, sufficient funds have already been provided for the panel to complete its work and thus no additional appropriation is made.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3090, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2615 Ways and Means on H.B. No. 3851

The purpose of this bill is to provide assistance to foster parents by:

- (1) Affording these individuals with the rights, responsibilities, and expectations of state agency volunteers;
- (2) Prohibiting insurance companies from considering a policy holder's foster child differently from the policy holder's natural or adopted child for purposes of determining premium rates on homeowners or renters insurance; and
- (3) Appropriating moneys to:
 - (A) Establish a demonstration project for the provision of respite care by licensed, specially trained foster parents on Oahu; and
 - (B) Provide child care for foster parents who attend foster parent training classes and foster parent meetings.

Your Committee agrees that the bill would assist in alleviating some of the reservations otherwise qualified and motivated individuals may have when deciding whether to become foster parents. Your Committee also agrees with the expectation that the benefits provided foster parents by this bill will not only increase their number, but improve their performance as well.

Your Committee has amended this bill by changing the appropriations to blank amounts in order to facilitate continuing discussions on these issues and by making technical nonsubstantive changes for purposes of style, clarity, and consistency.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3851, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3851, H.D. 2, S.D. 1.

Signed by all members of the Committee.

SCRep. 2616 Ways and Means on H.B. No. 3857

The purpose of this bill is to extend the Family Center demonstration project for an additional year, add a training and technical assistance component, and reinforce the concept of community strengthening and development.

Your Committee agrees that family centers should provide a unique and innovative approach to addressing the multiple needs of dysfunctional families and, by sponsoring family events, should assist these families in developing a sense of community.

Additionally, your Committee believes that the centers should maintain family literacy programs, although they need not operate them directly.

Accordingly, your Committee has amended this bill by replacing its contents with that of S.B. No. 2889, S.D. 2, which is substantially similar to this bill but also provides for the following:

- (1) Maintaining, rather than abolishing, the family literacy programs of section 6 of Act 329, Session Laws of Hawaii 1990, and further providing that these programs need not be operated directly by the family centers; and
- (2) Extends all of Act 329 until July 1, 1993, rather than just the amended provisions.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3857, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3857, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 2617 Ways and Means on H.B. No. 2614

The purpose of this bill is to conduct a study to identify and evaluate support services and gaps in support services currently provided to victims of domestic violence by agencies not related to law enforcement or prosecution.

The study will also provide recommendations for the development of a model, in each county, to assist victims in obtaining the services necessary to make the transition from their abusive situation to dealing with the legal procedures involved in the apprehension and prosecution of their abusers.

Your Committee recognizes that domestic violence is a serious and pervasive problem in our society that all too often ends tragically. Your Committee finds that this bill will help to ensure that victims of domestic violence receive the support and assistance they rightfully deserve.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2614, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2618 Ways and Means on H.B. No. 2714

The purpose of this bill is to:

- (1) Increase the authorization for circuit court judges for the first circuit to twenty-five;
- (2) Amend the law relating to use and appointment of per diem district court judges by: limiting the number of persons the chief justice may appoint as per diem judges to three; limiting the use of a per diem judge to fill a vacancy on the district court created by the temporary assignment of a district court judge to the circuit court level to no more than one at a time; providing for selection of per diem judges from lists presented by the judicial selection commission; and providing for terms of office and discipline and removal of per diem judges in the same manner as district court judges; and
- (3) Make absolutely clear for the Hawaii supreme court the legislature's intent, which the court found to be unclear in its decision in State v. Jordan, Haw. (No. 91-0439, February 13, 1992), that first and second offenses of driving under the influence of intoxicating liquor be tried by a judge, not a jury.

Your Committee finds this bill is necessary to address both the backlog of cases in the first circuit court and the excessive use of per diem judges and to clarify once and for all that, although the offense of driving under the influence of intoxicating liquor is a very serious social problem, it is not a constitutionally serious offense conferring the right to trial by jury.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2714, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2619 (Majority) Ways and Means on H.B. No. 1715

The purpose of this bill is to direct the legislative reference bureau to do a comprehensive study on the feasibility of establishing a Hawaii State University in Hilo.

The study would include an examination of the various policy implications of establishing a separate university, the cost of expansions necessary to operate a separate university, potential impacts upon faculty recruitment and retention, potential impacts upon Hawaii community college and the rest of the university system, and the legislative actions necessary to establish a separate university.

Your Committee finds that the establishment of a separate state university in Hilo may address many of the concerns surrounding the present University of Hawaii at Hilo. Your Committee further finds that a complete examination of the feasibility of establishing a separate university is warranted.

Your Committee has amended this bill to require the various entities that comprise the entire University of Hawaii system to designate contact persons and to provide requested information to the legislative reference bureau in a timely manner.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1715, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1715, H.D. 1, S.D. 2.

Signed by all members of the Committee.
Senator George did not concur.

SCRep. 2620 Ways and Means on H.B. No. 2313

The program would be conducted at each public school for students from grades kindergarten through twelve.

Specifically, this bill:

- (1) Describes the instruction and materials to be included in the program;
- (2) Requires the department to establish the requirements for traffic safety education resource teachers;
- (3) Authorizes the department to employ at least one traffic safety education resource teacher; and
- (4) Requires the department to pay the traffic safety education resource teacher out of fees paid to the superintendent of education from the drivers education fund underwriters fee.

The bill also changes the days during which the department is permitted to conduct motor vehicle driver education and training at public schools to include weekends and holidays, in addition to Saturdays and any recess, in addition to the summer recess.

The bill further appropriates an unspecified sum from the special drivers education fund account for fiscal year 1992-1993, for the department to employ a traffic safety education resource teacher.

Your Committee has amended this bill by:

- (1) Clarifying that the traffic safety education resource teacher is to be paid by the department of education out of fees allocated to the superintendent of education from the special drivers education fund account rather than the drivers education fund underwriters fee, which is deposited into the special drivers education fund account;
- (2) Adding a provision requiring that fifty per cent of the fees deposited into the special drivers education fund account allocated by the insurance commissioner be used to support the traffic safety education program established and administered by the department of education pursuant to this bill, in addition to supporting the drivers education program administered by the department of education for high school students, and renumbering sections 3 to 5 accordingly; and
- (3) Making technical nonsubstantive amendments.

Your Committee finds that programs for traffic safety education and driver education are in the public interest and benefits the public's health, safety, and general welfare.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2313, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2313, H.D. 1, S.D. 2.

Signed by all members of the Committee.

SCRep. 2621 Ways and Means on H.B. No. 2861

The purpose of this bill is to enhance the availability of student loans in the State.

Specifically, the bill authorizes the governor to request the United Student Aid Funds, Inc., to organize a subsidiary corporation known as the Secondary Market Services Corp.--Hawaii to carry out the purposes of section 309-1.5, Hawaii Revised Statutes; conforms the chapter to current federal law; and clarifies that the loan obligations are not an obligation of the State.

Section 309-1.5, HRS, relates to student loan funds. It creates a secondary market for the purchase of student loans from local financial institutions as authorized by federal law for the purpose of replenishing money to the local institutions to make new students loans. The sole purchaser of the loan notes is to be an affiliate of United Student Aid Funds, Inc. Therefore, this bill clarifies that the affiliate is known as the Secondary Market Services Corporation.

Your Committee has made technical changes which do not affect the bill's substance.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2861, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2861, S.D. 2.

Signed by all members of the Committee.

SCRep. 2622 Ways and Means on H.B. No. 3856

The purpose of this bill is to expand and develop parenting education programs statewide and making an appropriation therefor.

Your Committee finds that these programs are worthwhile and warrant continued support and expansion. The State's dire fiscal situation, however, requires your Committee to determine appropriation amounts at a later, more opportune time. Therefore, your Committee has amended the bill by retaining the nominal appropriation.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3856, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3856, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2623 Ways and Means on H.B. No. 788

The purposes of this bill are to:

- (1) Clarify that members of the department of agriculture or agents authorized by the department to enter private property to maintain a pest control or eradication program, are liable for damage caused by acts beyond the scope of the person's authority, or the person's negligence, gross negligence, or intentional misconduct, rather than liable for acts beyond the scope of the person's authority or acts due to negligence;
- (2) Repeal the law:
 - (A) Allowing the department of agriculture to bring an action in an appropriate district court to enjoin a landowner from refusing entry and to enforce compliance with the laws relating to the control or eradication of pests; and
 - (B) Requiring a district court to grant a restraining order or other appropriate relief to the department of agriculture upon proper showing;
- (3) Allow a member or agent of the department of agriculture to apply to a district court in the circuit in which a property is located for a warrant to enter on a premises to effectuate the purposes of the laws relating to the control or eradication of pests;
- (4) Allow a district court to issue a warrant directing a police officer of the circuit to assist a department member or agent in gaining entry onto a premises during regular working hours or at other reasonable times;
- (5) Allow the department of agriculture to proceed with the department's pest control or eradication program at the expense of a landowner or land occupier, when the landowner or land occupier fails to cooperate with the department in the department's pest control or eradication programs; and
- (6) Provide a penalty of:
 - (A) Not less than \$100 nor more than \$500 for a first offense; and
 - (B) Not less than \$1,000 nor more than \$5,000 for each offense thereafter;

for violations of the laws relating to pest control or eradication.

To avoid any misapplication of the penalties being added to section 141-7, Hawaii Revised Statutes, your Committee notes that the intent of this bill is not to impose the penalties in paragraph (6) for violations of the law relating to weights of coffee (section 141-4, Hawaii Revised Statutes) or any other existing or subsequent law not immediately relevant to pest control or eradication.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 788, H.D. 2, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2624 Ways and Means on H.B. No. 2320

The purpose of this bill is to appropriate funds to conduct a statewide household hazardous waste collection project.

Your Committee finds that the success of the department of health's collection and disposal of household hazardous wastes over the past several years warrants the continuation of the project. While the department's interim collection projects help to protect Hawaii's landfills from further contamination, they also achieve a more important goal: that of educating individuals and families about the dangerous effects of improperly storing and disposing of harmful wastes commonly generated in the home. Relying upon the already supportive response of the general public to the department of health's household hazardous waste collection and disposal projects, the continuation of such a program will certainly encourage more citizens to participate in preserving the health, safety, and beauty of the State.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2320, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2625 Ways and Means on H.B. No. 2387

The purpose of this bill is to appropriate \$150,000 to prevent the settlement of brown tree snakes in Hawaii.

The bill also prohibits a vessel from remaining in or around the State if a brown tree snake is found near or on board the vessel.

Your Committee understands that the brown tree snake has caused serious ecological and socioeconomic problems on Guam and that federal programs alone may be inadequate to prevent the snake from entering and becoming established in Hawaii. Thus, for the purpose of continuing discussion on the matter, your Committee has amended this bill by changing the appropriation to a blank amount. Your Committee has also amended the bill by making other technical and nonsubstantive changes.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2387, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2387, H.D. 1, S.D. 2.

Signed by all members of the Committee.

SCRep. 2626 Ways and Means on H.B. No. 2683

The purpose of this bill is to amend Act 293, Session Laws of Hawaii 1991, which establishes a new department of environmental protection, by:

- (1) Changing the date that the governor is required to submit the organizational and functional plan for the department of environmental protection from no later than thirty days prior to the convening of the 1992 legislative session to no later than sixty days prior to the convening of the 1993 legislative session;
- (2) Requiring the governor to:
 - (A) Appoint a management team to develop transition plans, rework position descriptions, revise personnel classifications, establish a personnel record system, develop accounting and fiscal controls, and attend to other administrative details so that the department of environmental protection will be operational by January 1, 1994;
 - (B) Submit a progress report to the legislature not less than sixty days prior to the convening of the regular session of 1993; and
 - (C) Prepare a budget request for the department of environmental protection;
- (3) Repealing the provision repealing Act 293, Session Laws of Hawaii 1991, on July 1, 1992, in the event that the legislature fails to enact a bill establishing the powers, duties, and other provisions of the department of environmental protection during the regular session of 1992; and
- (4) Requiring the department of environmental protection to adopt rules and be operational by January 1, 1994.

Your Committee has amended this bill by:

- (1) Clarifying that the governor is required to submit the organizational and functional plan for the department of environmental protection to the legislature as part of the biennial, rather than the supplemental, executive budget request;
- (2) Deleting the provision repealing the repeal date of Act 293, Session Laws of Hawaii 1991, and changing the repeal date of Act 293, Session Laws of Hawaii 1991, from June 1, 1992, to June 1, 1993;
- (3) Deleting the provision requiring the department of environmental protection to adopt rules and be operational by January 1, 1994; and
- (4) Making technical, nonsubstantive changes.

Your Committee finds that this bill will give the governor and his task force additional time to:

- (1) Consider the appropriateness of transferring to the department of environmental protection specific functions currently being performed by the department of health, the department of agriculture, the office of environmental quality control, the office of state planning, and the department of land and natural resources;
- (2) Build consensus among the agencies that will be affected by the transfer of these functions to the department of environmental protection;
- (3) Plan and implement activities to transfer these functions to the department of environmental protection; and
- (4) Prepare a biennial executive budget request for the department of environmental protection.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2683, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2683, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 2627 Ways and Means on H.B. No. 3164

The purpose of this bill is to adjust the amount of county surcharge excise tax credit and medical excise tax credit taxpayers can claim against their income tax liability and to limit the availability of surcharges collected and not used for the fixed rail rapid transit system in Honolulu that are returned to taxpayers in the form of an income tax credit to those who resided in the city and county of Honolulu for more than two hundred days of the taxable year.

This bill adjusts the county surcharge excise tax credit based on the results of a recent study conducted by the department of taxation that reported spending habits of middle and high income taxpayers. Generally, the credit is increased for middle income taxpayers and decreased for higher income taxpayers who reside in counties that have enacted a county surcharge excise tax. The county surcharge excise credit is also allowable to all taxpayers who do not reside in counties with a county surcharge excise tax. The allowable amount of the tax credit in that case is a smaller amount reflecting the smaller burden the taxpayer living in a county without a surcharge bears.

This bill also adjusts the medical excise tax credit by increasing the amount of the credit allowable for taxpayers living in counties with a county excise surcharge.

Your Committee has amended this bill to further clarify that surcharges collected that are returned to the taxpayers of the city and county of Honolulu because they are not used for the purpose of developing a fixed rail rapid transit system are those surcharges collected by the State for the city and county of Honolulu.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3164, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3164, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 2628 Ways and Means on H.B. No. 736

The purpose of this bill is to provide an income tax credit to qualified resident taxpayers to satisfy the provisions of Article VII, section 6, of the Constitution of the State of Hawaii.

Your Committee finds that this tax credit is mandated by the state constitution and is in addition to the food/excise tax credit and any other credits allowed under the income tax law.

Your Committee has amended this bill by:

- (1) Changing the amount of the income tax credit from \$1 to an unspecified amount, for purposes of facilitating further discussion of the issue;
- (2) Changing the reference to taxable year on page 2, line 12, from 1991 to 1992; and
- (3) Making technical nonsubstantive amendments for purposes of style, clarity, and consistency.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 736, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 736, H.D. 1, S.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2629 Ways and Means on H.B. No. 3442

The purpose of this bill is to establish a marine and coastal affairs program in the office of state planning to carry out the the Hawaii ocean resources management plan.

The bill designates as the head of the program a newly created position of deputy director of the marine and coastal affairs program, and establishes an advisory council of fifteen members to advise on the planning, coordinative, and facilitative functions of the program. The deputy director is required to prepare and submit to the 1994 legislature an options plan for the establishment of a proposed department of marine and coastal affairs that would consolidate the major ocean-related functions currently performed by various departments. The bill appropriates \$200,000 to the office of state planning for fiscal year 1992-1993.

Your Committee has amended the bill by deleting all references to the creation of a deputy director position; by substituting the \$200,000 appropriation with an unspecified amount; and by making technical, nonsubstantive amendments for purposes of style and clarity.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3442, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3442, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 2630 Ways and Means on H.B. No. 2505

The purpose of this bill is to require the State and the counties to streamline the land use approval process for the development of housing.

Your Committee finds that although the process was developed to preserve and protect the State's limited resources, Hawaii's long and cumbersome land use review process adds significantly to the high cost of developing housing throughout the State. Hawaii's land use review process requires governmental approvals at the level of the county as well as the State. This bill directs the counties and the State to explore and implement methods to reduce the time required to process requests, permits, and other approvals necessary for the development of housing.

Your Committee has made a technical nonsubstantive amendment to this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2505, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2505, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 2631 Ways and Means on H.B. No. 2719

The purpose of this bill is to establish a two-year homeless assistance pilot project under the Hawaii housing authority.

The function of the project would be to issue construction grants, rent subsidies, and other incentives to homeowners within the city and county of Honolulu to build new or improve existing dwelling units for the purpose of renting the unit to homeless families or individuals for a period of five years. This bill also establishes a homeless programs coordinator and a homeless assistance coordinating committee to serve as the State's interagency council on the homeless under the federal Stewart B. McKinney Act.

Your Committee finds that homelessness in Hawaii is one of the most significant social problems facing the people of Hawaii. The severity of the problem is visible in every area of the State, and signs that the problem is growing progressively worse are becoming increasingly prevalent. This bill establishes a program that provides an innovative alternative to the construction of group homeless shelters which are costly as well as unsafe for certain members of the homeless population. This bill authorizes the Hawaii housing authority to provide incentives to homeowners in the city and county of Honolulu to rent existing or newly constructed dwelling units to homeless families and individuals.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2719, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2632 Ways and Means on H.B. No. 3157

The purpose of this bill is to clarify the provisions of the individual housing account (IHA) deduction from income allowed under the income tax law.

Your Committee finds that the intent of the IHA law is to allow taxpayers to build up savings toward the purchase of their first residence. Taxpayers have abused the IHA by making short term contributions strictly for the benefit of the deduction. Amendments to the law will help restore the legislature's intent to encourage savings.

Your Committee has amended this bill by deleting the references to the Office of Thrift Supervision and the Resolution Trust Corporation which were being added to section 235-5.5(b)(2), Hawaii Revised Statutes. Your Committee finds that while these agencies were created at the same time that the Federal Savings and Loan Insurance Corporation was being abolished, they do not insure savings accounts and are thus not appropriately included in this provision.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3157, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3157, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 2633 (Joint) Education and Judiciary on H.B. No. 2123

The purpose of this bill, as received, is to modify the composition of the school advisory councils.

Your Committees find that educational reforms beyond the modification of the school advisory councils are urgently needed. Your Committees support the concept of educational reform and restructuring and empowering schools and communities with greater flexibility and autonomy through site based, shared decision-making. Governance restructuring, in and of itself, will not achieve the policy results necessary to improve the quality of the educational system, but it will help to create the proper environment and infrastructure to support changes and improve student learning.

Your Committees took the approach of restructuring the public school system from the school up, rather than from the policy-making level down. Your Committees believe that in order to empower individual schools, the Board of Education, Department of Education, state agencies, the Governor, labor unions, and the Legislature must redefine and modify their relationships and responsibilities to the public school system. In other words, the school, rather than the bureaucracy, must become the focal point.

Your Committees want to acknowledge the work of the Task Force on Educational Governance, whose members are to be commended for the time they invested in this project and for bringing to the forefront the need for reforms. Your Committees are basing their proposals on many of the Task Force recommendations.

Your Committees, therefore, have amended this bill as follows:

- (1) Modified the role of the Board of Education through a proposed constitutional amendment to limit the Board's powers to policy-making, goal setting, and establishment of standards only. Your Committees removed the internal management responsibility of the Board and transferred that power through statute to an appointed Superintendent, and ultimately, to the schools. The statutory authority to appoint School Advisory Councils has also been transferred from the Governor to the Board of Education. The board member elected from each district will chair the district School Advisory Council.
- (2) Allowed School Community-Based Management Councils the right to participate and provide input into the interview process and selection of school personnel. Under current law, this is the exception rather than the rule.
- (3) Modified the role of the Legislature by requiring a two-thirds vote for statutes relating to education and providing modified lump sum budgeting for district, student, and school allocations.
- (4) Clarified that the Legislature believes in the concept of limiting its control over methods and means in order to achieve greater policy results in public education. However, since we are ultimately responsible for raising revenues and accountable for how they are utilized, the Legislature must implement a results driven accountable program to assess achievement within the schools.
- (5) Included language that changes the philosophy of the collective bargaining process to encourage that contracts be supportive of school based shared decision-making and provide schools with greater autonomy and flexibility in meeting the needs of students.
- (6) The Governor's role has been amended and modified by limiting the Governor's authority to restrict funds for education and requiring the Governor to provide ten days notice before funds are restricted. Furthermore, funds can only be restricted when there is a revenue shortfall. The Governor's authority to appoint School Advisory Councils has been removed and appointment authority is placed with the Board of Education. This, in turn, will improve the relationship between School Advisory Councils and the Board of Education.
- (7) Established a comprehensive, systematic review of all laws, rules, and regulations that currently govern schools. If we affirm the vision of school empowerment, then many statutes, rules and regulations must be modified or repealed in order to allow schools to function more autonomously. Therefore, your committees have placed a series of drop dead clauses on all statutes and rules affecting schools. This will require the Auditor to analyze these statutes before the drop dead date in order to give the Legislature the opportunity to amend or delete them. This proposal shifts the burden from the schools to the bureaucracy to justify the need to control or regulate schools.

Your Committees on Education and Judiciary are in accord with the intent and purpose of H.B. No. 2123, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2123, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Senator Holt.

SCRep. 2634 Agriculture and Environmental Protection on H.B. No. 38

The purpose of this bill is to make it unlawful to possess or use any gill net in any embayment estuary or marine life conservation district.

Your Committee finds the existing substantive provisions of the bill are vague, therefore, your Committee has amended the bill by deleting the substance of it and inserting more specific language to require a person who is gill net fishing to remove a catch every twelve hours and to specify that a net may not be left in the water for more than eighteen hours.

Your Committee believes that the use of gill nets poses serious environmental problems and these amendments to the law would provide enhanced enforcement and compliance.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of H.B. No. 38, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 38, H.D. 1, S.D. 2.

Signed by all members of the Committee.

SCRep. 2635 Agriculture and Environmental Protection on H.B. No. 974

The purpose of this bill is to reduce the mesh size of fishing traps from two inches long by one inch wide to one and three-quarter inches long by three-quarters of an inch wide.

This bill was preliminarily approved by your Committee pursuant to Standing Committee Report No. 2439, recommitted, then heard on April 2, 1992. The bill was supported at the hearing by the Western Pacific Regional Fishery Management Council and Fathoms Plus, Inc.

Your Committee finds that the current legal mesh size for these traps does not promote conservation, and that the reduction in size proposed by this measure will promote consistency between federal and state regulations as well as ensure minimal disruption to Hawaii's lobster fishery.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of H.B. No. 974, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2636 Agriculture and Environmental Protection on H.B. No. 1817

The purpose of this bill is to amend Chapter 128D, Hawaii Revised Statutes, to add sections providing for the administrative review of clean up orders, the apportionment of clean up costs among liable parties, and other modifications proposed by the administration.

Those amendments were accomplished in the 1991 Legislative Session by the passage of Act 280.

Subsequently, additional concerns over the application of Chapter 128D to interisland shipping have been presented to the Legislature. Specifically, your Committee finds that there is an imminent danger of disruption in the supply of heavy fuel oils to the neighbor islands. Due to potentially massive liability under Chapter 128D, companies currently engaged in the interisland shipment of this fuel are seriously considering termination or have actually terminated service.

As these issues have only recently arisen, your Committee has designed a draft which is broadly conceptual for the purpose of further discussion, negotiation, and refinement in conference with the House of Representatives. In order to permit the fullest possible discussion, the elements of this draft establish wide parameters.

Your Committee has therefore amended the bill by deleting the existing provisions and inserting in their place amendments that limit the liability of interisland tank barges for releases of heavy fuel oil that are not intentional or grossly negligent. Your Committee has also inserted provisions allowing liability assessments to be collected in any manner authorized by law and requiring that carriers of heavy fuel oil be indemnified by the State for losses sustained above and beyond their insurance limits. The bill will be effective upon approval and will drop dead on December 31, 1996.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of H.B. No. 1817, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1817, S.D. 2.

Signed by all members of the Committee.

SCRep. 2637 Agriculture and Environmental Protection on H.B. No. 2321

The purpose of this bill is to increase the maximum fines for air pollution violations from \$10,000 to \$25,000 per violation.

The federal Clean Air Act Amendments of 1990 authorize the imposition of administrative penalties of up to \$25,000 per violation. This bill will render Hawaii's law consistent with federal law.

Your Committee has amended the bill by adding two new sections which:

- (1) Establish ambient air quality standards; and
- (2) Authorize the Director of Health to impose conditions on an air emission permit to reduce the likelihood of the emission of an air pollutant.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of H.B. No. 2321, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2321, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Ikeda and Levin.

SCRep. 2638 Agriculture and Environmental Protection on H.B. No. 2391

The purpose of this bill is to strengthen the environmental impact statement laws of the State by adding more comprehensive and specific requirements.

Your Committee finds that strengthening Chapter 343 is appropriate if Hawaii's Environmental Impact Statement system is to become a truly effective tool for providing public participation and information in the land use planning process.

Your Committee has amended the bill by deleting the existing provisions and inserting language requiring an environmental impact statement to include a detailed justification of a chosen alternative that is not the least environmentally destructive alternative available.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of H.B. No. 2391, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2391, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2639 Agriculture and Environmental Protection on H.B. No. 3059

The purpose of this bill is to allow the department of land and natural resources (DLNR) to adopt rules relating to issuing permits to take aquatic life for scientific, education, or propagation, and for aquarium purposes.

Your Committee has amended this bill to correct instances where the text of the bill differs from the Hawaii Revised Statutes, and by making technical, nonsubstantive changes.

The bill also limits the permits to a maximum duration of one year, and makes other "housekeeping" changes.

The authority to adopt administrative rules for the issuance of other fishery-related licenses, permits, and fees in the Hawaii Revised Statutes were granted by the legislature to the DLNR in previous years. This bill will allow the DLNR to transfer the measures on issuing the two permits from the Hawaii Revised Statutes to the DLNR's administrative rules.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of H.B. No. 3059, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3059, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2640 Agriculture and Environmental Protection on H.B. No. 3843

The purpose of this bill is to prohibit the purchase, distribution, manufacture, importation, or sale of any portable fire extinguisher that contains halons or other ozone depleting compounds and to require the use of an approved reclamation system in the repair or maintenance of any portable fire extinguishing system.

Testimony in support of the measure was submitted by the Department of Health and private citizens.

The passage of the measure would strengthen efforts to prevent the depletion of Earth's stratospheric ozone layer and shield the Earth's surface from dangerous ultraviolet radiation.

Your Committee has amended the bill by deleting the July 1, 1993, deadline prohibiting the sale of portable fire extinguishers containing halons or other ozone depleting compounds and inserting language which allows for the sale of such extinguishers until suitable replacements are made readily available. Your Committee has also deleted the requirement that the Director of Health approve reclamation systems used to repair fire extinguisher systems utilizing halons or other ozone depleting compounds.

Furthermore, your Committee has added provisions which:

- (1) Clarify that no person in this State, effective January 1, 1994, is to perform service on any mobile air conditioner, motor vehicle, or commercial or residential air conditioner, in addition to any appliance or machine, regulated by the director of commerce and consumer affairs, without possessing a certificate from the director attesting to the fact that the person has successfully completed an approved training course dealing with the recovery and recycling of CFCs, halons, and other ozone-depleting compounds. This amendment to Section 2 of the bill makes the wording of the provision relating to prohibited acts consistent with the wording of the provision relating to required training;
- (2) Amend the definition of "CFC" in the ozone layer protection law, the law relating to the regulation of motor vehicle repairs (chapter 437B, Hawaii Revised Statutes), and the law relating to contractors (chapter 444, Hawaii Revised Statutes), to be consistent with the definition of "CFC" contained in section 2 of this bill. These amendments make the definition of "CFC" consistent throughout the Hawaii Revised Statutes;
- (3) Define the terms "halon" and "ozone depleting compound" as they are used in the law relating to the regulation of motor vehicle repairs, and the law relating to contractors; and
- (4) Amend the definition of "refrigerant recovery and recycling equipment" as it is defined in the law relating to the regulation of motor vehicle repairs, to be consistent with the definition of "refrigerant recovery and recycling equipment" contained in the ozone layer protection law and the law relating to contractors;
- (5) Prohibit a person from performing service on any motor vehicle or mobile air conditioner after January 1, 1994, without possessing a certificate from the Director of Health attesting to the fact that the person has successfully completed an approved training course dealing with the recovery and recycling of CFCs, halons, and other ozone-depleting compounds;
- (6) Prohibit a person from intentionally causing or allowing CFCs to be released into the air from any source or process regulated under the law relating to the regulation of motor vehicle repairs; and
- (7) Make each motor vehicle or mobile air conditioner serviced after January 1, 1994, by a person who does not possess a certificate from the Director of Health attesting to the fact that the person has successfully completed an approved training course dealing with the recovery and recycling of CFCs, halons, and other ozone-depleting compounds, a separate offense for which fines may be imposed.

Your Committee finds that the bill will help to reduce the emission of CFCs, halons, and other ozone-depleting compounds into the atmosphere.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of H.B. No. 3843, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3843, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Ikeda.

SCRep. 2641 Agriculture and Environmental Protection on H.B. No. 3946

The purpose of this bill is to:

- (1) Provide for a thirty day public review period for environmental assessments prepared pursuant to Section 343-5, Hawaii Revised Statutes;
- (2) Require written responses to public comments; and
- (3) Reduce from sixty to thirty days the time during which a judicial proceeding concerning the necessity for an environmental impact statement may be initiated.

Testimony was received from the Office of Environmental Quality Control stating that although it supports the intent of the bill, the language contained in Senate Bill No. 2721, requiring a twenty day rather than a thirty day review period, is better suited to carry out the intent.

Your Committee agrees with the Office and has accordingly amended the bill by inserting the language found in Senate Bill No. 2721.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of H.B. No. 3946, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3946, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2642 Consumer Protection and Business Regulation on H.B. No. 3032

The purpose of this bill is to amend Hawaii's Lemon Law in order to take into account certain concerns of manufacturers, consumers, and arbitrators who have participated in the Lemon Law arbitration process.

Your Committee received testimony from the Department of Commerce and Consumer Affairs in support of the bill.

Specifically, the bill adds a new chapter to the Hawaii Revised Statutes, which replaces Sections 490:2-313.1 and 490:2-313.2, Hawaii Revised Statutes, and makes the following changes to the Lemon Law:

- (1) Establishes a specific "Lemon Law rights period" of two years from original delivery to the consumer, or the first 24,000 miles, whichever occurs first;
- (2) Provides a fairer and more meaningful method for calculating the offset of an award to consumers for the consumer's use of the motor vehicle;
- (3) Allows an offset for excessive wear and tear to the motor vehicle against an award to the consumer, if the excess wear and tear is unrelated to the nonconformity;
- (4) Makes certain changes to ensure consistency in the definition and use of "nonconformity" throughout the statute;
- (5) Applies the Lemon Law to any person to whom the vehicle has been transferred during the Lemon Law rights period, not just the original owner;
- (6) Expands the definition of "motor vehicle" to include vehicles registered in an individual's name, including vehicles used for business purposes as well as for personal, family, or household purposes;
- (7) Requires the manufacturer or dealer to provide a detailed repair order of repairs made to the vehicle;
- (8) Allows the consumer to utilize the Lemon Law even if the consumer did not inform the manufacturer in writing of the alleged defect; provided that the consumer never received a statement of rights when purchasing the vehicle and was unaware of the reporting requirement;
- (9) Allows a manufacturer only one opportunity to repair a defect that is likely to cause death or serious bodily injury before a consumer may utilize the provisions of the Lemon Law;
- (10) Requires an automobile manufacturer to advise the consumer of the existence of any service bulletins or reports with respect to the vehicle, and to provide copies at the consumer's request;
- (11) Requires that a disclosure be made to any subsequent purchasers of "lemons" which have been returned to the dealer; and
- (12) Provides a penalty section for violation of the chapter to ensure compliance.

Your Committee has amended the bill by making several technical, nonsubstantive amendments for the purposes of style and clarity.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of H.B. No. 3032, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3032, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2643 Consumer Protection and Business Regulation on H.B. No. 3974

The purpose of this bill, as received, is to provide for a limit on medical service charges under no-fault automobile insurance and for a mandatory rate reduction of no-fault automobile insurance premiums.

The purpose of this bill, as amended, is to reduce and to stabilize the cost of motor vehicle insurance in Hawaii. This bill amends the motor vehicle insurance laws to reduce no-fault insurance rates by enacting comprehensive changes to the motor vehicle insurance law, including a verbal threshold, medical fee schedules, stacking, and certain coverage provisions. This bill also provides for a moratorium on rate increases and for a rate reduction in premiums.

Your Committee remains concerned that no-fault insurance premiums will continue to escalate to higher amounts from the already unreasonable levels. Immediate legislative action is imperative lest thousands of more motorists go unprotected because no-fault insurance has become unaffordable.

Your Committee has amended this bill by replacing its provisions with provisions from the Senate companion bill, S.B. No. 2361, S.D. 1, with modifications. Your Committee strongly feels that the Senate bill addresses the totality of circumstances that contribute to the rise in the cost of automobile insurance.

Your Committee has made the following modifications to the Senate version as incorporated into this bill:

1. Medical fee schedule provisions as recommended by the Insurance Commissioner.
2. Changing the verbal threshold to "serious or permanent." This change reflects concerns of those who felt that the standard of "serious and permanent" was too stringent and would eliminate all but two percent of the cases. This modification will more closely adhere to the elimination of ninety percent of claims which was the original intent of the law. It will also permit those with serious fractures to sue. The verbal threshold will still have a substantial impact on insurance premium rates and therefore a fifteen percent reduction is still valid and justifiable.
3. Prohibiting possible collusion between attorneys and health care providers.
4. Increasing the wage loss benefits from \$900 per month to \$1,200 per month. There has been no change in the \$900 figure since 1973. This seems inadequate for today's cost of living and so an adjustment is necessary.
5. Deleting the reimbursement to insurance companies provision in the no-fault statutes. This provision is unnecessary since the bulk of awards are settled for general damages only, for which there is no subrogation.
6. Using recommended language from the Insurance Commissioner as to the rate freeze and premium reduction.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of H.B. No. 3974, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3974, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2644 Judiciary on H.B. No. 1926

The purpose of this bill is to add a new Part to Chapter 368, Hawaii Revised Statutes, to provide to an injured party the right of civil action against any person who, under color of any law of the State or its political subdivisions, deprived the injured party of rights, privileges, or immunities secured by the Hawaii Constitution or other law. It was patterned after 42 U.S.C. §1983 and 42 U.S.C. §1988.

Your Committee amended the bill by: (1) moving the counterpart of 42 U.S.C. §1983 to Chapter 661, Hawaii Revised Statutes; (2) deleting the provision for attorney fees; (3) adding a new section to Chapter 368, Hawaii Revised Statutes, which gives the Civil Rights Commission exclusive jurisdiction in discrimination actions for the first 180 days; and (4) changing the effective date.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1926, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1926, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Holt.

SCRep. 2645 Judiciary on H.B. No. 2597

The purpose of this bill is to toughen Hawaii's laws to deter the importation of illegal animals and unwanted pests. More specifically, the bill:

- (1) Mandates the disclosure of agricultural goods for all crew members and passengers of vessels entering the State;
- (2) Deletes references to "lists" in section 150A-7(b) to clarify that prohibited organisms also include those that are not in any list; and
- (3) Increases the grades of offenses in Chapter 150 and changes the corresponding penalties.

Supporting testimony was submitted by the Board of Agriculture and Conservation Council for Hawaii.

A representative from Petland Inc. and Pet Hawaii expressed concern that the bill subjects commercial importers to severe penalties for unintentional violations, such as accidentally importing a plant with a small egg or a mammal with a flea, and stated that there are other ways to control illegal smuggling or importations.

Your Committee finds that the real concern is to avoid and deter the unwelcome intrusion of destructive pests, regardless of whether they are imported intentionally or inadvertently. Importers or dealers who may be penalized as a result of errors in the course of their commercial dealings are not left without recourse since there are adequate remedies available under commercial law.

Your Committee amended the bill by:

- (1) Adding a new subsection (c) which makes it a violation if officers or crew members do not immediately report any sightings of plants or animals on their aircrafts or vessels landing in Hawaii to the Plan Quarantine Branch;
- (2) Increasing the penalties in section 15A-14, Hawaii Revised Statutes; and
- (3) Making other conforming amendments.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2597, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2597, H.D. 2, S.D. 2.

Signed by all members of the Committee except Senator Holt.

SCRep. 2646 Judiciary on H.B. No. 2696

The purpose of this bill is to propose an amendment to the state constitution to allow the issuance of special purpose revenue bonds in order to assist private, not-for-profit institutions of higher education in the financing of student housing facilities.

Your Committee accepted the findings of the Committee on Education concerning the desirability of the proposed amendments and focused on a technical review of the bill. Specifically; your Committee amended the bill, at the suggestion of the State's bond counsel, to reflect the holding in Habel, et al. v. Industrial Development Authority of the City of Lynchburg, 400 S.E. 2d 516 (Va. 1991).

Your Committee notes that there is an annual private activity volume cap of \$150 million on the State of Hawaii, under section 146 of the Internal Revenue Code. This volume is divided among the State and the several counties with \$75,000,000 of the volume allocated to the State and the other half divided among the counties. Thus, any utilization of Article VII, Section 12 by a qualifying institution of higher education will reduce the allocation for: low and moderate income government housing programs, non-profit health care facilities, utilities and manufacturing, processing or industrial enterprises. Currently; approximately forty percent of the State's cap is utilized for utility development, which directly benefits all customers, and sixty percent is used for housing development. Your Committee did not consider the issue of whether there would be a public benefit, if student housing displaces utility and state housing allocations.

Your Committee also notes that prior to the issuance of any bonds, there must be, inter alia, a TEFRA public hearing, approval by the Governor and enabling legislation pursuant to Chapter 39A, H.R.S. No such legislation is pending in the 1992 legislative session.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2696, H.D. 3, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2696, H.D. 3, S.D. 2.

Signed by all members of the Committee except Senators Holt, Cobb, Koki and Reed.

SCRep. 2647 Judiciary on H.B. No. 2725

The purpose of this bill is to authorize the board of directors or the manager of homeowner's associations and residential rental projects to conduct criminal history record checks on certain prospective employees through the Hawaii Criminal Justice Data Center (HCJDC).

Your Committee received testimony in support of the bill from Chaney, Brooks & Company, Hawaii Association of Realtors, and the Hawaii Chapter of the Institute of Real Estate Management.

The Department of the Attorney General supported the concept of the bill but felt it was unnecessary since conviction information is already a matter of public record under the Uniform Information Practices Act (Modified). Furthermore, the Department stated that because of the growing interest in the use of HCJDC's criminal records history check program, HCJDC is looking into the development of a public access program to make conviction information more accessible to the public.

In light of information provided by the Department, your Committee deleted the contents of this bill and used it as a housekeeping measure to repeal sections 514A-82.1 and 846-41, Hawaii Revised Statutes, pertaining to criminal history record checks by condominiums and cooperative housing corporations. Because conviction information is already a matter of public record, your Committee was concerned that the provisions created an inference that these entities must undergo more rigorous requirements to gain access to public information than other members of the public.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2725, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2725, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Holt.

SCRep. 2648 Judiciary on H.B. No. 3006

The purpose of this bill is to amend sections 576E-16 and 580-47, Hawaii Revised Statutes, to automatically terminate child support orders at age nineteen unless the custodial parent or adult child provide timely and sufficient proof that the child is continuing with his or her education.

Your Committee received testimony in support of the bill from the Department of the Attorney General, the Hawaii county office of the Corporation Counsel and a private citizen.

The Judiciary supports the intent of the bill to facilitate the termination by the Child Support Enforcement Agency (CSEA) of child support orders when an adult child is no longer in school. However, it expressed several concerns that: (1) the proposed language should be in the provisions relating to the CSEA rather than the court provision; (2) there is no notice requirement to advise affected parties of the new requirements; (3) that other provisions need to be conformed accordingly to avoid confusion and inconsistencies.

Giving due consideration to all the testimony, your Committee amended the bill as follows:

(1) Section 576E-14 instead of 576E-16 was amended to clarify that the procedures outlined will effect suspension of the child support obligation rather than just collection of payments.

(2) The phrase "beyond the age of majority" was deleted from H.D. 1. The original bill supported a review by the CSEA of the child's eligibility for support payments prior to the child's eighteenth birthday. However, the bill was subsequently amended to require a review prior to the child's nineteenth birthday. In keeping with the change made, the CSEA is proposing a deletion of the phrase "beyond the age of majority" as the present wording creates an ambiguity as to whether the CSEA must do a review not only prior to the child's nineteenth birthday, but also prior to the child's eighteenth birthday.

(3) The phrases "enrolled as a full-time student" and "as a full-time student" were added to make clear that support for an adult child pursuing education would continue only if he/she were a full-time student. This would be consistent with the child support guidelines requirement that the child's attendance be full-time.

(4) Section 584-18, Hawaii Revised Statutes, was amended to make clear that the suspension of obligations by the CSEA would also apply to paternity cases.

(5) Section 571-52.2, Hawaii Revised Statutes, was amended to allow an obligee to pursue recoupment from the CSEA only if the monies were disbursed to the Department of Human Services. The CSEA has no control of monies disbursed to non-AFDC obligees and should not be held responsible for those non-AFDC cases where the child is between the ages of 18 and 19 and the child's attendance in school was not determined until the child's 19th birthday. At the request of the CSEA, the word "from" is added to Section 571-52.2(d) to clarify that the added language "to the extent the overpayment was disbursed to the Department of Human Services" applies only to the child support enforcement agency and not to the obligee.

(6) A provision was added regarding that notice be sent by the CSEA to the adult child and custodial parent regarding the possible suspension of child support.

(7) The term "prospective" was added to make clear that child support arrearages, monies due to the State may still continue after the child support has been terminated. Further, at the request of the Judiciary, the phrase, "dependence for education" was replaced with "pursuance of higher education" since child support is intended to also cover other necessary expenses (e.g., living expenses) in addition to specific education expenses.

(8) The term "suspension" is substituted for the term "termination" as the former term more accurately describes the action being taken and makes clear that the adult child can seek prospective modification of child support at a later date.

(9) To accommodate the change from section 576E-16 to 576E-14, the sentences "In addition, if applicable, the agency or hearings officer may issue an order terminating existing assignments against the responsible parent's income and income assignment orders." and "In addition, if applicable, the agency, hearings officer, or court may issue an order terminating existing assignments against the responsible parent's income and income assignment orders." were added. These provisions provide for termination of existing assignments against the responsible parent's income and income withholding orders.

(10) Sections 576E-14(e), 580-47(a) and 584-18(a) were amended to reflect that notice be given by regular mail.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3006, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3006, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Cobb, Koki and Reed.

SCRep. 2649 Judiciary on H.B. No. 3303

The purpose of this bill is to establish reasonable and uniform fees for the research and reproduction of records in response to investigative subpoenas issued by the Attorney General or the county prosecutors. This bill proposes to set research and reproduction fees at the rates set by the federal reserve system for financial institutions that perform these services pursuant to a federal grand jury or investigative subpoena.

In support of this bill, the Department of the Attorney General, the Honolulu Department of the Prosecuting Attorney and the Honolulu Police Department testified that the current fees charged by financial institutions that comply with investigative subpoenas vary extensively and appear to be in excess of actual costs. The Hawaii Bankers Association requested deferral of this bill to continue working with the law enforcement agencies to establish a mutually agreeable cost-reimbursement schedule. However, efforts to establish a reasonable and uniform cost-reimbursement schedule by negotiation have been unsuccessful.

Your Committee believes that the fees should be reasonable and uniform. However, your Committee is confronted by a lack of information regarding the actual costs of compliance necessary to determine what fees are reasonable and the inability of the parties to establish a time frame within which a mutually agreeable cost-reimbursement schedule will be forthcoming.

Because this bill is becoming a perennial, your Committee amended it to direct the legislative auditor to conduct a study of the actual cost of compliance and to report to the legislature prior to the 1994 session. The bill also grants immunity to a financial institution that complies with a request for information from the legislative auditor for purposes of the study. Your Committee finds that setting interim fees, even if arbitrarily, will provide the needed uniformity until the matter can be studied or until the parties can reach an agreement.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3303, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3303, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Cobb, Koki and Reed.

SCRep. 2650 Judiciary on H.B. No. 3770

The purpose of this bill is to clarify the circumstances under which individuals suffering from mental illness can be involuntarily hospitalized or provided treatment. The bill, as received by your Committee, attempted to address this issue by defining the term "imminent" in Chapter 334, Hawaii Revised Statutes.

This bill is in response to Suzuki v. Yuen, 617 F.2d 173 (9th Cir. 1980), in which the 9th Circuit Court of Appeals struck down Hawaii's prior involuntary commitment statute on the grounds that the statute failed to specify that the "danger" to self and others be imminent.

Your Committee received testimony from the Department of Health, the Public Defender, American Civil Liberties Union of Hawaii, Oahu Alliance for the Mentally Ill, Inc., The Hawaii State Alliance for the Mentally Ill, Mental Health Association in Hawaii, Kona Community Friends For The Mentally Ill, Big Island Alliance for the Mentally Ill, Kauai Ami, Protection and Advocacy Agency of Hawaii and numerous individuals.

The proponents of the bill saw it as a means to provide treatment to individuals who can no longer provide for their own needs or make rational decisions regarding their own welfare. These individuals resist treatment as a manifestation of their illness. The proponents believe that, as a result of Suzuki, the courts have been reluctant to enforce Hawaii's civil commitment laws absent a finding that the individual is imminently dangerous, thereby forcing the individual to live on the streets or left in the care of family and friends who must watch the individuals decompensate to the point of becoming dangerous to themselves and others before obtaining treatment.

However, those expressing reservations about the bill were concerned that the bill failed to provide adequate safeguards to protect the rights of the mentally ill or was more confusing than helpful.

Your Committee acknowledges that steps must be taken to address the concerns raised by both sides and is encouraged by the Department of Health's decision to further test the constitutionality of Hawaii's laws as well as the Suzuki standard, particularly in light of Doe v. Gallinot, 657, F.2d 1017 (1981), in which the 9th Circuit upheld the "gravely disabled" standard used in California's involuntary commitment statute.

In light of these considerations, your Committee amended the bill by:

- (1) Deleting the substance of the bill; and
- (2) Adding the imminently dangerous to self or others and gravely disabled standards to sections 334-59 and 334-121 to insure consistency in the standards for civil commitment, emergency observation and treatment and outpatient treatment.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3770, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3770, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Holt.

SCRep. 2651 Judiciary on H.B. No. 3854

The purpose of this bill is to make the temporary restraining orders issued which are under Chapter 586, Hawaii Revised Statutes, effective as the date they are orally stated, provided the court determines that the restrained person understands the order. The bill also requires that oral protective orders be reduced to writing and issued promptly and requires the provision of forms to accomplish this purpose.

Testimony in support of this bill was mixed; supporters generally spoke to the intent and opponents pointed out that the provisions were either unnecessary or inconsistent with current practice and caselaw.

Your Committee, however, found this bill to be an appropriate vehicle to consolidate several bills amending the provisions of chapter 586, a bill dealing with chapter 709 and a proposed amendment to chapter 580. These bills were thematically related and consolidation provided a better prospect of consistency. More specifically the following bills were incorporated: H.B. 2605, H.D. 1 (§586-4 and -11), H.B. 3221, H.D. 1 (§586-5 and -6) and H.B. 3326, H.D. 1 (§709-906). In addition, a proposed amendment to section 580-10, Hawaii Revised States was included.

H.B. No. 2605, H.D. 1 amended the chapter on "Domestic Abuse Protective Orders" to provide for mandatory jail time for repeated violations of a temporary restraining order or a protective order pursuant to this chapter. In addition to incorporating the provisions of the House bill, your Committee made clarifying amendments regarding the applicability of the mandatory jail time. Based on a suggestion received at the hearing on H.B. No. 2605, H.D. 1, your Committee also made a conforming amendment to section 580-10, Hawaii Revised Statutes, which covers similar orders issued in the course of an amendment, divorce or separation proceeding.

H.B. No. 3221, H.D. 1 amended the same chapter by tripling the period during which a temporary restraining order would remain in effect, providing for a subsequent order that was thirty-six times as long as the current law and amending the provision on service of the order. Your Committee amended the bill to address the concerns of the Judiciary regarding consistency and due process concerns.

H.B. No. 3326, H.D. 1 proposed mandatory jail time, similar to the provision of H.B. No. 2605, H.D. 1 for abuse of a household member or refusal to comply with a lawful order of a police officer who is interceding in a domestic dispute. Your Committee amended the provisions of H.B. No. 3326 which were added to this bill to reflect the decisions made concerning the provisions taken from H.B. No. 2605, H.D. 1. Your Committee notes that this consistency is achieved at the cost of reducing the currently applicable penalties. Consistency was chosen, over maintaining the more stringent penalties in the current law, primarily to highlight the issue for closer scrutiny by the conference committee which is virtually necessary on a bill of this complexity.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3854, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3854, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt and Cobb.

SCRep. 2652 Consumer Protection and Business Regulation on H.B. No. 3811

The purpose of this bill is to authorize the Board of Medical Examiners to extend, at its discretion, the limited and temporary licenses it issues to physicians preparing to take the licensure examination beyond the eighteen month limit currently provided by law.

Your Committee received testimony in support of the bill from the Board of Medical Examiners, the Hawaii State Hospital, and the Hawaii Medical Association.

Your Committee has amended the bill by adding language that limits the discretionary extension to a maximum of six months beyond the original expiration date of the limited and temporary license, and by making minor nonsubstantive changes for clarity.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of H.B. No. 3811, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3811, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Chang, Cobb and McCartney.

SCRep. 2653 Consumer Protection and Business Regulation on H.B. No. 3937

The purpose of this bill is to provide a waiver of re-examination requirements for a psychology license for applicants who are employed by the State and who established a license in another state prior to 1977.

Your Committee received supporting testimony from the Department of Health, Kauai Non-Profit Resource Center, YWCA Kauai, Hale 'Opio Kauai, Inc., Wai'anae Coast Community Health Center, Inc., Queen's Liliuokalani Children's Center, and two private citizens.

Your Committee finds that there is a need for clinical psychologists on Kauai, and that some licensing exceptions are necessary in order to meet this need. Currently, there is only one State-employed psychologist on Kauai and she is unlicensed, though she has many years of experience and is licensed elsewhere.

However, your Committee has policy concerns about creating licensing exceptions; therefore your Committee has amended the bill by limiting the exemption to a period not to exceed eighteen months.

Your Committee on Consumer Protection and Business Regulation is in accord with the intent and purpose of H.B. No. 3937, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3937, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Iwase, Chang, Cobb and McCartney.

SCRep. 2654 Ways and Means on H.B. No. 2563

The purpose of this bill is to implement chapter 21F, Hawaii Revised Statutes, relating to legislative fiscal and budget analysis.

This bill requires the joint legislative budget committee to submit a progress report, prior to the 1993 legislative session, on the establishment of the office of the legislative analyst and to conduct a biennial evaluation of the legislative analyst's job performance. This bill also provides an appropriation of \$1 for fiscal year 1992-1993, for the operations of the office of the legislative analyst.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2563, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Aki.

SCRep. 2655 Ways and Means on H.B. No. 2886

The purpose of this bill is to repeal or amend various special and revolving funds administered under the department of commerce and consumer affairs, the department of education, the department of health, and the department of human services.

Your Committee finds that Act 240, Session Laws of Hawaii 1990, directed the office of the auditor to perform a comprehensive review of various special and revolving funds of the State to determine whether these funds should be continued, modified, or repealed. Act 240 expressed concern over the State's ability to maintain control over the state budgetary process during times of uncertainty or when fluctuations in the economy affect general fund reserves. Special and revolving funds generate and expend revenues directly without regard to legislative review; thereby contributing to a loss of budgetary control.

As currently drafted, this bill fails to carry out the full intent of the auditor's recommendations to the legislature. In this regard, this bill has been amended, in its entirety, by substituting its contents with the contents of S.B. No. 3076, S.D. 1, with several technical revisions. Your Committee finds that this measure, which was previously reviewed and approved by this Committee, more accurately reflects the recommendations of the office of the auditor.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2886, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2886, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Aki.

SCRep. 2656 Ways and Means on H.B. No. 2885

The purpose of this bill is to repeal or amend various special and revolving funds administered under the housing finance and development corporation and the department of business, economic development, and tourism.

Your Committee finds that Act 240, Session Laws of Hawaii 1990, directed the office of the auditor to perform a comprehensive review of various special and revolving funds of the State to determine whether these funds should be continued, modified, or repealed. Act 240 expressed concern over the State's ability to maintain control over the state budgetary process during times of uncertainty or when fluctuations in the economy affect general fund reserves. Special and revolving funds generate and expend revenues directly without regard to legislative review; thereby contributing to a loss of budgetary control.

As currently drafted, this bill fails to carry out the full intent of the auditor's recommendations to the legislature. In this regard, this bill has been amended, in its entirety, by substituting its contents with the contents of S.B. No. 3075, S.D. 1, with several revisions, including the addition of the Hawaii strategic development corporation fund among those funds directed to transfer excess moneys to the general fund on July 31, 1992. Your Committee finds that this measure, which was previously reviewed and approved by this Committee, more accurately reflects the recommendations of the office of the auditor.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2885, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2885, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Aki.

SCRep. 2657 Ways and Means on H.B. No. 3158

The purpose of this bill is a housekeeping measure to simplify and streamline all references to the chapters of the Hawaii Revised Statutes administered by the department of taxation.

Your Committee has replaced the substance of this bill with the substance of S.B. No. 3295, S.D. 2. The bill, as amended herein, exempts from the State's use tax, the purchase of certain equipment by certain nonprofit entities engaging in oil pollution removing activities. Your Committee has also inserted the substance of S.B. No. 2907 which requires taxpayers to abide by rules adopted by the director of taxation concerning the assignment of the county surcharge to a particular county and imposes an additional penalty for failure to file the county surcharge schedule.

Your Committee finds that this bill would contribute significantly to environmental emergency response and would also benefit Hawaii's environment at minimal cost to government.

Your Committee further finds that the Marine Spill Response Corporation (MSRC) is a private, not-for-profit, and tax exempt organization which will provide a best-effort response to catastrophic oil spills on United States coastal and tidal waters. The MSRC is allocating \$21,000,000 to protect Hawaii's coastline including a two hundred ten foot response vessel to be stationed in Hawaii in January 1993, and two barges to carry recovered oil spill response equipment.

The exemption will be repealed on June 30, 1993.

Your Committee finds that the provisions of requiring taxpayers to abide by rules adopted by the director of taxation and the additional penalties imposed for failure to file the county surcharge schedules will assist the department of taxation in their administration of taxes.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3158, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3158, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Aki.

SCRep. 2658 Ways and Means on H.B. No. 3958

The purpose of this bill is to extend indefinitely the life of the Waikiki convention center authority.

The bill also:

- (1) Authorizes the authority to issue revenue bonds in its own name up to \$250,000,000;
- (2) Establishes, as a purpose of the authority, the recommendation of alternate sites to the legislature, and repeals the International Market Place provisions;
- (3) Permits private, governmental, or quasi-governmental entities to develop a convention facility;
- (4) Removes the requirement for the legislature to designate a convention center site and convention center district and to establish criteria for development within that convention center district;
- (5) Removes the requirement that the convention facility be developed and financed at no cost to the State;
- (6) Authorizes the authority to manage, operate, and maintain the convention center facility but provides an option for the State to assume responsibility if the authority deems it to be prudent;
- (7) Requires the developer to negotiate with the State for the transfer of a marketable real property interest in the convention center facility; and
- (8) Requires the developer to manage, operate, and maintain the convention center facility for a period to be negotiated between the authority and the developer.

Upon further consideration, your Committee has amended the bill by deleting all provisions except for indefinitely extending the life of the Waikiki convention center authority and authorizing the authority to issue revenue bonds in its own name up to \$250,000,000; and by making other technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3958, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3958, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senator Aki.

SCRep. 2659 Ways and Means on H.B. No. 3643

The purpose of this bill is to issue special purpose revenue bonds for Kawaihae Cogeneration Partners to establish a cogeneration facility that would produce electricity and desalinized water.

Your Committee finds that the project will meet two critical needs of the Big Island; namely, the critical shortage of power-generation plants and the limited supply of freshwater in West Hawaii. In addition to the specific needs of the Big

Island, however, the development of a coal-fired cogenerational facility will address the State's larger need to decrease its dependence upon imported oil. Finally, since the Kawaihae Cogeneration Partners' project involves the construction of the first commercial power plant/desalination unit in the United States, such a facility would promote Hawaii as the leader in the development of efficient electrical generation technology.

Your Committee has amended this bill by:

- (1) Including Waimana Enterprises, Incorporated, as a business to be assisted by the funds; and
- (2) Changing "Kawaihae Partners" to "Kawaihae Cogeneration Partners".

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3643, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3643, H.D. 1, S.D. 1.

Signed by all members of the Committee except Senator Aki.

SCRep. 2660 Ways and Means on H.B. No. 3134

The purpose of this bill is to require the department of business, economic development, and tourism to prepare an energy emergency preparedness plan.

The plan would be implemented in the event of, or in anticipation of, a change in the State's petroleum supply or demand situation that is judged by the governor to be unmanageable by the free market.

The department is also required to prepare an energy emergency communication plan to communicate and otherwise coordinate state and county actions taken in response to implementing the biennial state energy emergency preparedness plan.

The bill also:

- (1) Requires the mayor of each county, or the mayor's authorized representative, to prepare a comprehensive biennial county energy emergency preparedness plan to be implemented in coordination with the biennial state energy emergency preparedness plan upon the declaration of an energy emergency by the governor;
- (2) Repeals the law allowing the governor, or the governor's authorized representative, to control the retail distribution and sale of petroleum products by adopting rules allowing the counties to be exempt from all or portions of a state plan and to operate petroleum product distribution plans tailored to their own specific needs;
- (3) Requires the governor's authorized representative to submit requests to the governor to withdraw moneys from the petroleum products control fund for immediate relief in the event of a shortage, or when the governor determines a shortage to be imminent and unavoidable, subject to the condition that not more than \$500,000, is to be expended for the immediate relief of any single shortage;
- (4) Allows the governor's authorized representative to expend funds from the petroleum products control fund during ordinary petroleum market conditions for planning and preparation to respond to a shortage;
- (5) Repeals the law exempting any county, which has under its charter the right to declare an emergency and the power to carry out a plan to cope with the emergency, from all or portions of a state plan as the county may determine by ordinance; and
- (6) Appropriates the sum of \$2 to the office of the governor, for fiscal year 1992-1993, of which:
 - (A) \$1 is to be paid into the petroleum products control fund created in section 125C-7, Hawaii Revised Statutes; and
 - (B) \$1 is to be allocated to each of the counties solely for the purposes of energy emergency preparedness.

Your Committee has amended this bill by:

- (1) Repealing the petroleum products control fund;
- (2) Requiring all unencumbered and unexpended moneys in the petroleum products control fund, if any, to be deposited to the credit of the state general fund;
- (3) Deleting the appropriation to the office of the governor for fiscal year 1992-1993; and
- (4) Making technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3134, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3134, H.D. 2, S.D. 1.

Signed by all members of the Committee except Senators Aki and George.

SCRep. 2661 Ways and Means on H.B. No. 2917

The purpose of this bill is to establish a five-year demonstration project at Maluhia Hospital to provide comprehensive, community-based long-term health care services for the frail elderly.

This demonstration project, known as PACE (program for all-inclusive care for the elderly), is part of a national project aimed at providing comprehensive and cost-effective long-term care to the frail elderly who are at risk of institutionalization.

The bill as received by your Committee also creates a special fund known as the PACE risk reserve fund for cost overages and states the legislature's intent to make the program permanent upon the expiration of the demonstration period. Upon further consideration, your Committee has amended this bill to delete those provisions. Technical, nonsubstantive amendments were also made for purposes of style.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No 2917, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2917, H.D. 2, S.D. 2.

Signed by all members of the Committee except Senator Aki.

SCRep. 2662 Ways and Means on H.B. No. 3799

The purpose of this bill is to establish a statewide system of primary health care centers.

This bill also clarifies that the standard for participation in the system shall be the same as for federally funded 329/330 community health centers. The bill further allows the department of health to provide clinical dental health services. The bill finally allows the department of health three years to establish the system.

Your Committee finds that community-based primary health care clinics provide medical care and health promotion services to persons who do not have access to private health care providers. However, the department of health has identified various medically underserved areas within the State including parts of rural Oahu and many of the neighbor islands. Your Committee further finds that the department of health should assist the development of community-based health primary health clinics in these medically underserved areas to assure equal access to health care for all Hawaii residents.

Your Committee has made technical, nonsubstantive amendments for the purposes of clarity and style.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3799, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3799, H.D. 2, S.D. 2.

Signed by all members of the Committee except Senator Aki.

SCRep. 2663 Ways and Means on H.B. No. 3107

The purpose of this bill is to promote the increase of affordable housing production by providing a general excise tax exemption for all gross income received by qualified persons or firms involved with the planning, design, financing, construction, or sale of privately-sponsored affordable housing projects.

Your Committee finds that the exemption provided in this bill will provide an incentive for developers to start and complete affordable housing units in the State. Your Committee also finds that this bill does not address any use tax that may be assessed on the value of the property imported by the developers for use in building the affordable housing units. Accordingly, your Committee has amended this bill by extending the exemption to property subject to the use tax.

Your Committee has made other technical amendments for purposes of clarity and style.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3107, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3107, S.D. 2.

Signed by all members of the Committee except Senator Aki.

SCRep. 2664 Ways and Means on H.B. No. 3100

The purpose of this bill is to authorize the housing finance and development corporation (HFDC) to develop or assist in the development of federal lands, with the approval of appropriate federal authorities.

Your Committee finds that the housing problem in Hawaii requires the legislature to support new ideas and concepts to address the housing shortage in the State. This bill provides the HFDC with greater flexibility to maximize available resources in exercising its duty to provide more affordable housing.

Your Committee has amended this bill by exempting for housekeeping purposes, certified or approved housing projects from the use tax laws effective retroactive to March 1, 1992.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3100, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3100, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Aki.

SCRep. 2665 Ways and Means on H.B. No. 2504

The purpose of this bill is to authorize the establishment of mutual housing associations that will assist Hawaii residents to purchase, develop, build, or rehabilitate land and residential structures.

Your Committee finds that a mutual housing association which actively involves tenants in the development and operation of quality, long-term housing fosters community spirit because residents can participate in the successful management of their own housing projects. This arrangement enhances neighborhood stability; and, in some cases, reverses the physical, economic, and social decline of a residential area.

Your Committee has amended this bill by making technical, nonsubstantive changes.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2504, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2504, H.D. 2, S.D. 2.

Signed by all members of the Committee except Senator Aki.

SCRep. 2666 Ways and Means on H.B. No. 2498

The purpose of this bill is to prohibit residential leases from containing leasehold surrender clauses unless the lessee has the exclusive right to extend the lease for an additional thirty years, or for the useful life of the improvements, whichever is less.

The bill also requires the lessor to pay the lessee the fair market value of the improvements as determined by appraisal or arbitration. The bill further prohibits a lessor from requiring a lessee to remove onsite improvements at the lessee's expense and establishes maximum annual renegotiated lease rents for lessees of condominiums, cooperatives, and planned unit and cluster housing developments.

Upon further consideration, your Committee has amended this bill by deleting its contents and by replacing it with the substance of H.B. No. 3708, H.D. 1, S.D. 1.

The amended bill defines "owner occupant" and "fee simple land." The amended bill also replaces the qualification of being a bona fide resident of the State or to have a bona fide intent to reside in the development tract with the requirement that a person must be domiciled in Hawaii and must be an owner occupant of the residential structure situated on the leased lot in order for the person to purchase the fee simple interest in a residential houselot within a development tract pursuant to the law governing residential leaseholds and condemnation of development tracts (the "land reform" law).

Your Committee has also made technical, nonsubstantive amendments to section 516-33, Hawaii Revised Statutes, for purposes of clarity and style.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2498, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2498, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Aki.

SCRep. 2667 Ways and Means on H.B. No. 2400

The purpose of this bill is to create a mortgage insurance revolving fund to provide mortgage insurance for affordable multi-family rental housing projects under the housing finance and development corporation.

A mortgage insurance program for multi-family rental projects is currently nonexistent. A state-guaranteed mortgage insurance program would help to stretch available funds by enabling the mortgagee of a rental project to resell the mortgage in the secondary mortgage investment market.

Upon further consideration of this measure, your Committee has made a number of amendments to make the program more workable. The bill, as amended, now provides for the following:

- (1) Limits the State's guarantee to \$50,000,000;
- (2) Limits the State's liability under the program;
- (3) Ensures compliance with constitutional requirements;
- (4) Establishes a "reasonable" revolving fund reserve of 10 per cent; and
- (5) Appropriates an unspecified sum to carry out the purposes of this measure.

Your Committee has also reinserted the section containing the definitions of terms used in this bill which were deleted by the previous committee on the basis that the terms are of plain meaning. Your Committee finds that this section is essential to the understanding of the terms used in the new subpart and has therefore replaced it in its entirety.

Other technical, nonsubstantive amendments have also been made.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2400, H.D. 2, S.D. 1, as amended here, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2400, H.D. 2, S.D. 2.

Signed by all members of the Committee except Senators Aki and George.

SCRep. 2668 Ways and Means on H.B. No. 3306

The purpose of this bill is to allow the salary of the executive director of the Hawaii public broadcasting authority (HPBA) to be established by the board of public broadcasting and the director of commerce and consumer affairs.

Your Committee finds that the salary of the executive director of HPBA is currently established by statute and set by the board of the Hawaii public broadcasting authority, which is a part-time, voluntary group whose knowledge of existing executive salaries may be limited. The inclusion of the director of commerce and consumer affairs will remedy this weakness because the director can inform the board about comparable executive salaries and suggest a fair and appropriate salary amount under the current salary schedule.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3306, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Aki.

SCRep. 2669 Ways and Means on H.B. No. 2570

The purpose of this bill is to permit school principals to withhold the academic credentials of a pupil if restitution is not made for any damages or loss to school property caused by the pupil.

Because of the need to maintain current state services in light of the State's ongoing budgetary crisis, your Committee has elected to utilize this bill as a vehicle to effectuate necessary changes to the department of education's budgetary process. Your Committee has amended this bill in its entirety by deleting its contents and inserting provisions to:

- (1) Relieve the State of the requirement to deposit \$90,000,000 in general fund revenues to the state educational facilities improvement special fund during 1992;
- (2) Authorize the issuance of \$90,000,000 in general obligation bonds to substitute for the general fund deposit waived under paragraph (1);
- (3) Provide that the department of education shall not be required to assume the payment of debt service for the bonds authorized under this bill;
- (4) Establish an interim task force to explore alternate mechanisms to improve the efficiency of state funds generated for education; and
- (5) Increase the current A+ after school program participation fee from \$23 to \$28.

Presently, section 237-31, Hawaii Revised Statutes, requires the State to deposit \$90,000,000 in general fund revenues into the state educational facilities improvement special fund on September 1 of each year until 1995. However, because of the current shortfall and the slow growth anticipated for state revenues over the near future, your Committee finds that planned expenditures of general fund revenues must be reduced in various areas. This bill relieves the State of the requirement to deposit \$90,000,000 in general fund revenues into the special fund and authorizes the issuance of general obligation bonds in the same sum to substitute for the required deposit. Because this bill merely changes the source of funding, the state educational facilities improvement special fund will not experience any cutbacks or fluctuations in revenues dedicated to the program.

This bill also raises the A+ after school participation fee to \$28. While it is reluctant to propose such an increase, your Committee finds that additional sources of revenue must be explored. Your Committee finds that the proposed increase will not unduly impact the participation of public school students currently participating in the after school program.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2570, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2570, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Iwase and George.

SCRep. 2670 Ways and Means on H.B. No. 2571

The purpose of this bill is to increase the expenditure thresholds that determine when formal and informal bids must be made for expenditures of public funds.

This bill also exempts community hospitals from the formal bid requirement when purchasing therapeutic equipment; exempts medical service expenditures from the formal bid requirement; and adjusts the thresholds for public works and heavy equipment.

Your Committee notes that the State's procurement law has been adjusted, amended, and has had provisions repealed several times over the past several years. Following this period of analysis, your Committee finds that the law requires several additional amendments to ensure the development of an efficient and effective procurement process for the State.

While it concurs with the basic intent of this bill, your Committee finds that a more appropriate approach to revising the State's procurement law is contained in a senate measure passed earlier by your Committee. In this regard, your Committee has replaced the entire contents of this bill with the contents of S.B. No. 2660, S.D. 2.

As amended, this bill:

- (1) Requires advertisement for sealed tenders for all expenditures of \$15,000, or more;
- (2) Exempts the emergency replacement of diagnostic and therapeutic equipment by the community hospitals of the department of health from the formal bid requirement;
- (3) Subjects expenditures in excess of \$8,000 but less than \$15,000 to the informal bid requirement;
- (4) Subjects expenditures for road and building repair and maintenance in excess of \$8,000 but less than \$25,000 to the informal bid requirement;
- (5) Exempts expenditures made for emergency public works in excess of \$8,000 but less than \$15,000, from the formal and informal bid requirements;
- (6) Exempts the department of health from the requirement to accept the low bid and the requirement to qualify more than one vendor when expenditures are made for the purchase of diagnostic equipment;
- (7) Requires the department of accounting and general services to report on the benefits of exempting the division of community hospitals from the bidding process; and
- (8) Establishes performance bond requirements for the construction of public works above the bid threshold.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2571, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2571, H.D. 2, S.D. 2.

Signed by all members of the Committee except Senators Aki, Iwase and George.

SCRep. 2671 Ways and Means on H.B. No. 3564

The purpose of this bill is to create a revolving fund called the challenge grant and loan fund to be administered by the housing finance and development corporation for the purpose of making grants or loans for innovative housing proposals and projects.

Your Committee has amended this bill in its entirety to return to the general fund the \$120,000,000 previously advanced to the homes revolving fund and to replenish the homes revolving fund with proceeds from issuance of general obligation bonds.

Your Committee has also exempted the housing finance and development corporation from assuming any debt service associated with the bond issue, and by making technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3564, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3564, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Aki.

SCRep. 2672 Ways and Means on H.B. No. 2800

The purpose of this bill is to appropriate \$900,000 for the publication of the 1992 Replacement volumes to the Hawaii Revised Statutes (HRS).

Your Committee finds that the HRS volumes have not been replaced since 1985. As a result, the size of the supplements to the bound volumes have become too thick. Consolidating these two sets would be more economical and would make for easier handling. Furthermore, the present supply of HRS volumes is low and is expected to be depleted in less than two years.

At the same time, two other projects could be undertaken with regard to the HRS at no additional cost. The first would be to replace present language with gender-neutral language when applicable. The second would be to validate the HRS in the SHADOW computer system presently being utilized.

Your Committee finds, however, that although the appropriation is reasonable and warranted, present fiscal constraints dictate an austere approach to all appropriations. Therefore, for the purposes of continued discussion, your Committee has amended the bill to reflect an unspecified dollar amount.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2800, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2800, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Iwase, Solomon and George.

SCRep. 2673 Ways and Means on H.B. No. 3801

The purpose of this bill is to require the governor to appoint a special master to head a team comprised of members of various groups to examine issues pertaining to improving the fiscal and administrative systems of the community hospitals.

The bill requires the team to report its plan and recommendations to the 1993 legislature. The bill also adds to the flexibility given to Maui memorial hospital and Hilo hospital in order to achieve effectiveness and efficiency through decentralization. The bill further extends its repeal date from June 30, 1992, to June 30, 1994, and appropriates a blank amount to assist in the collection of outstanding accounts receivable owed by all community hospitals.

Your Committee finds that, at present, there is no universal agreement on a plan to restructure the community hospitals system that is acceptable to all. Your Committee believes that an independent hospitals governance committee must be established, headed by a chairperson with extensive experience in business and fiscal management, to develop a plan to determine the precise form that fiscal and administrative restructuring of the community hospitals should take.

Accordingly, your Committee has amended this bill by deleting its substance and by adding a new chapter to the Hawaii Revised Statutes to create the Hawaii community hospitals public corporation, to be effective on July 1, 1993. The amended bill:

- (1) Creates a board of directors of the corporation consisting of nine voting members and one nonvoting member who is to be the chief executive officer to be appointed by the board. Eight voting members are to be representatives of their respective counties and one voting member is to be the director of health as an ex officio member;
- (2) Creates four county advisory committees within the corporation to advise their respective public health facility administrators;
- (3) Allows each administrator to organize facility committees to advise the administrator and the community;
- (4) Grants the corporation general powers;
- (5) Provides for appointment of a chief executive officer without regard to civil service provisions;
- (6) Confers certain powers to the chief executive officer including hiring various personnel with and without regard to civil service provisions;
- (7) Provides for exempt and nonexempt personnel; and
- (8) Requires submission of an annual report to the legislature.

In addition, the amended bill:

- (1) Creates an interim hospitals governance committee, to be headed by an independent chairperson, to plan the orderly transition of authority and functions from the division of community hospitals of the department of health to the Hawaii community hospitals public corporation. The committee is to submit proposed amendments to the law governing the Hawaii community hospitals public corporation for the legislature's consideration and action in the 1993 regular session for the purpose of implementing an appropriate, effective, and efficient system of operating and managing the public corporation;
- (2) Specifies a non-exhaustive list of issues to be addressed by the interim committee;
- (3) Provides for the composition of the committee;
- (4) Creates a hospitals governance support team and provides for its composition;
- (5) Requires the governor to appoint an independent chairperson of the hospitals governance committee;
- (6) Requires the support team to act as an executive search committee for the chairperson of the hospitals governance committee;
- (7) Sets deadlines for the appointment and empanelling of the support team, the hospitals governance committee, and the chairperson of the hospitals governance committee;
- (8) Sets qualifications of the chairperson of the hospitals governance committee;
- (9) Amends Act 223, Session Laws of Hawaii 1990, to extend the deadline for the department of health to formulate policies for the autonomous operation of Maui Memorial and Hilo Hospitals from June 30, 1992 to June 30, 1993; to provide for the submission of an additional interim status report to the governor, the president of the senate, and the speaker of the house of representatives not less than twenty days before the convening of the 1993 regular

session; and to extend the date for submitting the final project completion report to twenty days before the convening of the 1994 regular session;

- (10) Appropriates an unspecified amount for the operation of the hospitals governance committee and an unspecified amount for funding the executive search for the chairperson of the hospitals governance committee, to be expended by the department of health;
- (11) Provides for passage of the bill before passage of the budget; and
- (12) Gives effect to the bill upon approval except for the new chapter regarding the Hawaii community hospitals public corporation which is to take effect on July 1, 1993.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3801, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3801, H.D. 2, S.D. 2.

Signed by all members of the Committee except Senators Iwase and George.

SCRep. 2674 Ways and Means on H.B. No. 1048

The purpose of this bill is to authorize the Governor to provide a supplemental benefits option to state executive and managerial personnel through the establishment of a tax deferred life annuity program consistent with Internal Revenue Code Section 457.

Your Committee has amended the bill by deleting its substance and inserting language increasing the number of deputies in the department of transportation from three to four.

Your Committee finds that the director of transportation requires an additional deputy to effectively and efficiently carry out the duties and responsibilities of the department.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1048, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1048, H.D. 2, S.D. 2.

Signed by all members of the Committee except Senators Iwase, Solomon and George.

SCRep. 2675 Ways and Means on H.B. No. 2349

The purpose of this bill is to clarify the applicability of the rental motor vehicle and tour vehicle surcharge tax.

The bill accomplishes this by:

- (1) Amending the definitions of "tour vehicle", and "tour vehicle operator";
- (2) Deleting the requirement that tour vehicles be categorized by the public utilities commission (PUC); and
- (3) Stipulating that the monthly surcharge tax of \$65 be levied on each tour vehicle falling into the over twenty-five passenger seat category, and monthly surcharge tax of \$15 be levied on tour vehicles falling into the eight to twenty-five passenger seat category.

Your Committee has amended this bill to make it apply to taxable years beginning after December 31, 1992.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2349, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2349, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Iwase and George.

SCRep. 2676 Ways and Means on H.B. No. 3838

The purpose of this bill is to enable the department of health to meet the requirements of the federal Clean Air Act Amendments of 1990.

Specifically, the bill will:

- (1) Provide for criminal penalties for violations of the State Clean Air Act;
- (2) Establish a small business assistance program to provide technical support and environmental compliance information;
- (3) Establish a compliance advisory council;
- (4) Establish a small business ombudsman for air pollution control;
- (5) Provide for judicial review of permit decisions for all participants in the public comment process;

- (6) Create a clean air special fund;
- (7) Authorize the department of health to establish permit fees to cover the costs of developing, supporting, and administering Clean Air Act permits; and
- (8) Limit regulated substances to those designated in rules to be adopted by the department.

Your Committee has amended the bill by deleting:

- (1) Section 10 of this bill, as received, which amends the permit requirements of section 342B-32, Hawaii Revised Statutes, to expand the reach of regulation to include the emission of any air pollutant; and
- (2) The clean air special fund.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3838, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3838, H.D. 2, S.D. 2.

Signed by all members of the Committee except Senators Iwase and George.

SCRep. 2677 Ways and Means on H.B. No. 3148

The purpose of this bill is to establish, within the office of the governor, the office of international relations.

Your Committee has amended this bill by:

- (1) Deleting the provision allowing the office, subject to the civil service law and compensation law, to employ and retain staff;
- (2) Adding a provision allowing the director, without regard to the civil service law and compensation law, to retain staff and to set their salary levels;
- (3) Adding a provision including staff, in addition to the director, in any benefit program generally applicable to the officers and employees of the State;
- (4) Deleting the provision describing the general functions and duties of the office;
- (5) Adding a provision describing the general functions, duties, and powers of the office;
- (6) Deleting the provision considering the state strategic plan for international activities to be accepted and approved if the legislature does not disapprove the plan by concurrent resolution during the first regular session of the legislature following the submittal of the same;
- (7) Deleting the provision:
 - (A) Requiring all gifts, contributions, or donations of money to the office, to be paid into the state treasury and expended according to law and in accordance with the terms and conditions of the contributions or donations;
 - (B) Appropriating the abovementioned moneys in accordance with the terms and conditions of the contributions or donations; and
 - (C) Prohibiting the office from accepting contributions or donations, except for expenditures within the purposes of this bill;
- (8) Adding a provision:
 - (A) Allowing the office to receive, manage, and invest moneys or other property, real, personal, or mixed, which may be given, bequeathed, devised, or in any manner received from sources other than the legislature or any federal appropriation for the benefit of the office, or the aid or advantage of the State or counties, and in general act as trustee on behalf of the governor for any of these purposes or objectives;
 - (B) Requiring the office to keep suitable books of accounts to record each gift, the management of each gift, and the expenditure of the income; and
 - (C) Requiring a statement of all receipts and expenditures to be included in the regular reports required to be made by the office;
- (9) Adding a provision authorizing the office to establish a separate account to receive, manage, and invest moneys that may be given, bequeathed, devised, or in any manner received from sources other than the legislature or any federal appropriation for the benefit of the office, or the aid or advantage of the State or counties;
- (10) Adding a provision preventing persons who transfer to the office from another state agency, after being retained by the director, from suffering any loss of prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of that transfer; and

(11) Making technical nonsubstantive amendments.

Your Committee finds that the establishment of one centralized office to coordinate the international activities of the various state agencies will assist the State in assuming a greater role in international affairs, foster the development of stronger cooperative relationships between the State of Hawaii and countries throughout the world, and enhance Hawaii's standing as an international center.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3148, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3148, H.D. 2, S.D. 2.

Signed by all members of the Committee except Senators Iwase and George.

SCRep. 2678 Ways and Means on H.B. No. 2454

FINANCIAL CONDITION OF THE STATE

During the past decade, Hawaii was fortunate to realize double digit general revenue growth which resulted in additional resources for many new programs, expansion of existing programs, and initiation of myriad capital improvement projects. However, due to the national recession and local economic downturns, the State's present financial condition looks bleak and its future is uncertain.

In September 1991, the Council on Revenues predicted a growth rate of 10 percent for the fiscal year 1992-1993 and 4.9 percent for fiscal year 1993-94. In January 1992, that estimate was revised to 6 percent and 2.7 percent, respectively. In their March 1992 report, the Council indicated that actual general revenue collections were below earlier projections, and their estimate was again revised downward to 2.4 percent and 1.1 percent, respectively. Further, the March revenue assumptions result in projected losses in general fund collections in excess of \$350 million over the biennium. These revised estimates and the accompanying decline in general revenue collections represent a "red flag" which your Committee cannot ignore in its deliberation on the Administration's supplemental requests.

While the Administration and the House of Representatives developed their supplemental requests based upon the Administration's January revenue assumptions, your Committee has chosen to accept the Council's March report, which is essentially a no growth projection for the next two years. Additionally, projections for the outyears beginning with fiscal year 1993-1994, indicate that general fund revenues will not increase sufficiently to sustain the operating budget at its present level. Your Committee, therefore, has adopted the position that economic uncertainty must be approached with an attitude of fiscal responsibility.

APPROPRIATION AND EXPENDITURE POLICIES

As submitted by the Administration, the supplemental budget requested an additional general fund appropriation of \$150 million for program operations and \$154 million for capital improvement projects. As received by your Committee, the House of Representatives proposal requested an additional \$95 million for program operations and \$215 million for capital improvement projects. Your Committee notes, however, that the House of Representatives operational request does not include the additional \$53 million in general revenues which the State must provide to the Mass Transit Development Fund. Thus, the House proposal as received by your Committee combined with the additional \$53 million for mass transit represents essentially the same amount as requested by the Administration.

Based upon the budget hearings conducted by your Committee, there is a consensus among the various subject matter committee chairs and the members that very real needs exist within all program areas. However, your Committee must first address the general revenue declines and bleak economic situation.

Your Committee has chosen a variety of strategies to address the State's present and future economic situation. First, all state agencies were requested to identify seven percent of their budget base which could be reduced. Your Committee wants to note that this reduction was not implemented in an arbitrary nor across-the-board manner. Second, many supplemental requests received from the Administration were scaled-back. Third, requests for capital improvement projects were also scaled-back by delaying the initiation of construction or lapsing funds from projects which have not yet been initiated. Finally, your Committee searched for sources of general revenue cash which could be added to the general fund for the 1992-1993 fiscal year. Examples of this strategy include diverting \$120 million from the homes revolving funds which amount was loaned two years ago to the revolving fund and, for the fiscal year 1992-93 only, diverting \$90 million from the education facilities special fund and replacing the cash with proceeds from general obligation bonds.

After careful deliberation weighing the uncertainty of our financial future with the immediate needs in certain program areas, your Committee has provided a scant \$35 million in additional general revenues for program operations and \$125 million for capital improvement projects.

Your Committee has also provided an additional authorization of \$162 million for special funds. This brings the total supplemental budget proposal, including both general and special funds, to \$4.4 billion for the fiscal year 1992-1993. Your Committee would like to state that its intent in providing a minimal supplemental budget is to encourage the recognition of the State's bleak economic forecast for not only fiscal year 1992-93, but the next fiscal biennium as well. Your Committee is hopeful that the Legislature can reach a consensus on the need to make certain cutbacks in the interest of fiscal responsibility, and that further agreement can be reached on the approach and assumptions chosen to make such cutbacks. In conjunction with making these cutbacks, your Committee also hopes to work together with its House counterparts to prioritize the immediate needs which have been identified during the budget hearings this year, recognizing that all requests will not and cannot be granted.

BUDGET FORMAT AND APPROACH

Beyond the scaling back of supplemental requests, your Committee has also developed a three-part budget to prioritize the supplemental requests. Your Committee made a good faith attempt to assign each supplemental request to one of the following categories: Part A provides funds which promote health and safety or which are required to meet specific legal requirements and other items deemed important. Part B provides funds which address operational deficiencies and meet critical needs as identified by the agencies. Part C provides funds for other needs. Your Committee wants to emphasize that the intent of this approach is to provide the Administration with direction as to the priorities of the Legislature. Additionally, your Committee notes that all of the items were not easily categorized and the Committee is hopeful that this prioritization strategy will be more fully developed during discussions with our House counterparts.

Your Committee notes that the Legislature has already provided emergency appropriations for Medicaid of \$64 million for the current fiscal year and \$44 million for fiscal year 1992-93, cognizant that these amounts may not be sufficient to address our pressing needs in this area. Your Committee further notes that for the second year in a row, an emergency general fund appropriation has also been provided to subsidize the Division of Community Hospitals.

Finally, in keeping with its posture of fiscal responsibility your Committee has deleted various provisos which grant flexibility to the Administration for transferring funds and approving expenditures above appropriated amounts within and among program areas. Your Committee believes that only in emergency circumstances, should funds be used for purposes other than as appropriated. Your Committee notes that the Constitution charges the Legislature with responsibility for the allocation of resources through its appropriation authority, and thus it is the Legislature which is also accountable for the redirection of public funds.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2454, H.D. 1, as amended herein and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2454, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2679 Ways and Means on H.B. No. 2705

The purpose of this bill is to provide supplemental appropriations to the Judiciary for the fiscal biennium 1991-93 by amending Act 299, Session Laws of Hawaii 1991.

Your Committee finds that due to the recent national recession and local economic downturns, the financial condition of the State is uncertain for the present and the immediate future. In September 1991, the Council on Revenues predicted a growth rate of 10 percent for the fiscal year 1992. In January 1992, that estimate was revised downward to 6 percent. In their March 1992 report, the Council on Revenues indicated that actual general revenue collections were below earlier projections, and the growth rate estimate for fiscal year 1992 was again revised downward to 2.4 percent. These revised estimates represent a "red flag" which your Committee cannot ignore in its deliberations on all supplemental requests. Your Committee, therefore, has determined that economic uncertainty must be approached with an attitude of fiscal responsibility.

The Judiciary's supplemental budget request of \$4.6 million, representing a 5.6 percent increase, exceeds many other supplemental budgets under your Committee's review, reinforcing a myriad of reservations relating to budget autonomy granted to the Judiciary in 1974. In evaluating trends, it should be noted that the Judiciary's budget has increased a total of 49 percent over the past three years, with an average annual increase of 11.67 percent.

Considering the growth in Judiciary's budget requests, and the uncertainty of the State's economy your Committee determined that many of the Judiciary's supplemental items cannot be granted at this time, and only those items which are necessary to continue effective operation of current programs will receive additional funding.

Critical program needs and staffing shortfalls were addressed first to alleviate backlogs in the Courts of Appeal, the Criminal Division of the Circuit Courts, the Domestic Violence Division of the Family Courts, and the Traffic Court Division of the District Courts. Funding was also provided for treatment of drug and sex offenders due to the increasing demand for rehabilitative services. Finally, your Committee has continued to support the development and implementation of the Courts' information system to begin the first major phase of this project.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2705, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2705, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2680 Ways and Means on H.B. No. 3184

The purpose of this bill is to provide supplemental appropriations to the Office of Hawaiian Affairs (OHA) for the fiscal biennium 1991-93 by amending Act 301, Session Laws of Hawaii 1991.

Your Committee finds that due to the recent national recession and local economic downturns, the financial condition of the State is uncertain for the present and the immediate future. In their March 1992 report, the Council on Revenues indicated that actual general revenue collections were below earlier projections, and the growth rate estimates were revised downward to 2.4 percent for fiscal year 1992 and 1.1 percent for fiscal year 1993. The lower projections reflect a loss in excess of \$350 million over the biennium. These revised estimates also represents a "red flag" which your Committee cannot ignore in its deliberations on all supplemental requests. Your Committee, therefore, has determined that economic uncertainty must be approached with an attitude of fiscal responsibility.

Over the past three years, OHA's budget has increased a total of 72 percent, with an average annual increase of 24 percent. However, OHA's supplemental request of \$4.7 million represents an additional increase of 70 percent for the 1992-93 fiscal year alone. Your Committee further finds that this request has not been adequately justified by the agency. OHA staff have not responded in a timely manner to requests for additional information, and the poor quality of information received by your Committee has only made it more difficult to determine the appropriate level of funding.

Thus, given the uncertainty of the economy and the need for improved fiscal responsibility, your Committee has determined that OHA's supplemental request cannot be granted; with the exception of \$150,000 for the centennial observance of the overthrow of the Hawaiian monarchy. Your Committee believes that the observation of this event is important not only to the Hawaiian people, but all residents of our State.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3184, H.D. 2, as amended and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3184, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2681 Education on S.C.R. No. 180

The purpose of this Concurrent Resolution is to request the Department of Accounting and General Services to study the feasibility of purchasing the Aiea Sugar Mill.

The building on the premises would be converted into a public library and the Mill itself would be preserved as an historic site.

Your Committee finds that the expanding Aiea community needs a larger more comprehensive library, and the Sugar Mill grounds would provide a convenient location. However, your Committee also finds that the building on the property, owned by the California and Hawaii Sugar Company (not the H.S.P.A as incorrectly identified in the Concurrent Resolution), is too frail to hold floors of books, and that another location on the property would be more suitable for a library. Your Committee has amended this Concurrent Resolution accordingly.

Your Committee has also amended this Concurrent Resolution by deleting references to an historic site and requesting that the study be confined to the feasibility of purchasing the acreage at the site if a portion is suitable for a new library. Your Committee has also made several nonsubstantive technical changes for the purposes of clarity and style.

Your Committee on Education concurs with the intent and purpose of S.C.R. No. 180, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 180, S.D. 1.

Signed by all members of the Committee.

SCRep. 2682 Education on S.R. No. 145

The purpose of this Resolution is to request the Department of Accounting and General Services to study the feasibility of purchasing the Aiea Sugar Mill.

The building on the premises would be converted into a public library and the Mill itself would be preserved as an historic site.

Your Committee finds that the expanding Aiea community needs a larger more comprehensive library, and the Sugar Mill grounds would provide a convenient location. However, your Committee also finds that the building on the property, owned by the California and Hawaii Sugar Company (not the H.S.P.A as incorrectly identified in the Resolution), is too frail to hold floors of books, and that another location on the property would be more suitable for a library. Your Committee has amended this Resolution accordingly.

Your Committee has also amended this Resolution by deleting references to an historic site and requesting that the study be confined to the feasibility of purchasing the acreage at the site if a portion is suitable for a new library. Your Committee has also made several nonsubstantive technical changes for the purposes of clarity and style.

Your Committee on Education concurs with the intent and purpose of S.R. No. 145, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 145, S.D. 1.

Signed by all members of the Committee.

SCRep. 2683 Legislative Management on S.C.R. No. 16

The purpose of this concurrent resolution is to recognize the contributions of the health care community and designate September 1992 as "Health Care Team Month".

Your Committee finds that health care professionals serve our community through their commitment to preserving life, promoting health, and improving the overall quality of life. Your Committee further finds that these professionals comprise a health care team of physicians, nurses, paramedics, dentists, health educators, and other allied health workers who should be recognized throughout the community for their many contributions.

Your Committee on Legislative Management concurs with the intent and purpose of S.C.R. No. 16 and recommends its adoption.

Signed by all members of the Committee.

LCRep. 2684 Executive Appointments on Gov. Msg. Nos. 221, 222, 223, 224, 225, 227, 232, and 235

Recommending that the Senate advise and consent to the nominations of the following:

PHILLIP NAVARES to the Board of Acupuncture, term to expire June 30, 1993 (Gov. Msg. No. 221);

LEONARD A. FREED, Ph.D., and MICHAEL G. HADFIELD, Ph.D., to the Animal Species Advisory Commission, terms to expire June 30, 1996 (Gov. Msg. No. 222);

RUSSELL MIYADA to the Aquatic Life and Wildlife Advisory Committee, City and County of Honolulu, term to expire June 30, 1995 (Gov. Msg. No. 223);

SUSUMU "TONTI" SAKAIDA to the Aquatic Life and Wildlife Advisory Committee, County of Maui, term to expire June 30, 1996 (Gov. Msg. No. 224);

LANCE M. MARUGAME and NANCY TOYAMA to the Board of Barbers, terms to expire June 30, 1996 (Gov. Msg. No. 225);

MAUDE I. PANGANIBAN, D.C., to the State Board of Chiropractic Examiners, term to expire June 30, 1996 (Gov. Msg. No. 227);

DONALD SCOTT BOWMAN III, FRANK FARM, JR., and ROBERT J. LUUWAI to the Hawaii Fisheries Coordinating Council, terms to expire June 30, 1996 (Gov. Msg. No. 232); and

SPENCER ALAN LAU, D.O., to the Board of Osteopathic Examiners, term to expire June 30, 1996 (Gov. Msg. No. 235).

Signed by all members of the Committee.

LCRep. 2685 Executive Appointments on Gov. Msg. Nos. 231, 233, 236, 237, 238, 239, 240, and 241

Recommending that the Senate advise and consent to the nominations of the following:

DAVID IHA and KIM WINEGAR to the Advisory Commission on Employment and Human Resources, terms to expire June 30, 1995 (Gov. Msg. No. 231);

VERONICA POEPOE M. MORIKAWA, to the King Kamehameha Celebration Commission, term to expire June 30, 1995 (Gov. Msg. No. 233);

J. KAHEA BECKLEY, TOMI DOWNEY CHONG and MARGARET KULA STAFFORD to the King Kamehameha Celebration Commission, terms to expire June 30, 1996 (Gov. Msg. No. 233);

CHARLES E. FURR, PHILIP LAI, Ph.D., and STEPHANIE A. WHALEN to the Advisory Committee on Pesticides, terms to expire June 30, 1996 (Gov. Msg. No. 236);

DEBBIE ANN ESCHMANN to the Board of Taxation Review, First Taxation District (Oahu), term to expire June 30, 1996 (Gov. Msg. No. 237);

ANDREW JOSEPH BONFIELD and GEORGE K. SANO to the Board of Taxation Review, Second Taxation District (Maui), terms to expire June 30, 1996 (Gov. Msg. No. 238);

EDWIN T. HARA and TIMOTHY S. YOUNG to the Board of Taxation Review, Third Taxation District (Hawaii), terms to expire June 30, 1996 (Gov. Msg. No. 239);

CAROLINE K. UOHARA to the Board of Taxation Review, Fourth Taxation District (Kauai), term to expire June 30, 1996 (Gov. Msg. No. 240);

EDMUND P. CROVO, JR., to the Tourism Training Council, term to expire June 30, 1993 (Gov. Msg. No. 241); and

CARLEEN J. CHOO, MILDRED S. HIGASHI, Ph.D., ELWOOD K. MOTT, JR., and JANE M. YAMASHIRO to the Tourism Training Council, terms to expire June 30, 1996 (Gov. Msg. No. 241).

Signed by all members of the Committee.

LCRep. 2686 Executive Appointments on Gov. Msg. Nos. 260, 261, 262, 263, 267, 268, 269, and 270

Recommending that the Senate advise and consent to the nominations of the following:

VERONICA L.K. MEDEIROS, KAY K. NAGAISHI and OLGA RUTH SNIFFEN to the Library Advisory Commission, City and County of Honolulu, terms to expire June 30, 1996 (Gov. Msg. No. 260);

GERALDINE MINN GIFFIN, BARRY GUERRERO, ROXANE G. IWAMOTO and BEATRICE L. LAU to the Library Advisory Commission, County of Hawaii, terms to expire June 30, 1996 (Gov. Msg. No. 261);

JAMES M. OKADA, to the Library Advisory Commission, County of Kauai, term to expire June 30, 1994 (Gov. Msg. No. 262);

JUNE K. ACHI, MILDRED HIRAMOTO and MICHAEL MACHADO to the Library Advisory Commission, County of Kauai, terms to expire June 30, 1996 (Gov. Msg. No. 262);

HARVEY STEWART JANIS, LILA DOUGLAS SWINK, SHELDEEN M. TAKEO and SANDRA M. WADA to the Library Advisory Commission, County of Maui, terms to expire June 30, 1996 (Gov. Msg. No. 263);

DOUGLASS T.K. PANG to the Board of Registration, Island of Oahu, term to expire June 30, 1995 (Gov. Msg. No. 267);

ELWIN L. SPRAY to the Board of Registration, Island of Oahu, term to expire June 30, 1996 (Gov. Msg. No. 267);

DAISY U. SMITH to the Board of Registration, Island of Hawaii, term to expire June 30 1996 (Gov. Msg. No. 268);

DALE N.Y. TAKIGUCHI to the Board of Registration, Kauai and Niihau, term to expire June 30, 1996 (Gov. Msg. No. 269);

JOHN K. KAALEKAHI to the Board of Registration, Maui, Molokai, Lanai and Kahoolawe, term to expire June 30, 1994 (Gov. Msg. No. 270); and

JAMES E. ALDER to the Board of Registration, Maui, Molokai, Lanai and Kahoolawe, term to expire June 30, 1996 (Gov. Msg. No. 270).

Signed by all members of the Committee.

LCRep. 2687 Executive Appointments on Gov. Msg. Nos. 247, 248, 249, 251, 264, 265, and 266

Recommending that the Senate advise and consent to the nominations of the following:

RHONDA NISHIMURA to the Board of Directors, Aloha Tower Development Corporation, term to expire June 30, 1996 (Gov. Msg. No. 247);

SEUNG-JI LEE, ANGELA M. MOREHEAD and L. JOHN WILLIAMSON to the Consumer Advisory Council, terms to expire June 30, 1996 (Gov. Msg. No. 248);

JUDY D. BISGARD, ROWENA K. KEAKA and RICARDO D. TRIMILLOS, Ph.D., to the State Foundation on Culture and the Arts, terms to expire June 30, 1996 (Gov. Msg. No. 249);

KATSUGO MIHO to the Hawaii Housing Authority, term to expire June 30, 1996 (Gov. Msg. No. 251);

BERNICE E. COLEMAN, M.D., to the Board of Medical Examiners, term to expire June 30, 1996 (Gov. Msg. No. 264);

BRYCE H. NAKAMURA to the Board of Pharmacy, term to expire June 30, 1996 (Gov. Msg. No. 265);

ROY S. MURAKAMI, to the Board of Physical Therapy, term to expire June 30, 1995 (Gov. Msg. No. 266), and

CRAIG B. NAGATA and CYNTHIA LOUISE PRICE to the Board of Physical Therapy, terms to expire June 30, 1996 (Gov. Msg. No. 266).

Signed by all members of the Committee.

SCRep. 2688 Science, Technology and Economic Development on S.C.R. No. 104

The purpose of this concurrent resolution is to request that the legislative auditor hire a consultant knowledgeable in telecommunications to conduct a detailed technical, financial, and management audit of the Hawaii Information Network Corporation (Hawaii INC).

Your Committee heard testimony from Hawaii INC, which proposed that the consultant be knowledgeable in telecommunications marketing to address the marketing nature of Hawaii INC's activities.

Your Committee examined and questioned the procurement of equipment and services by Hawaii INC. After receiving testimony on the abovementioned matters, your Committee has reason to be concerned about the activities of Hawaii INC and its procurement practices.

First, your Committee is concerned about the extensive number of videotex terminals acquired by Hawaii INC. Videotex applications have been implemented elsewhere with limited success, and approximately two hundred terminals have been purchased by Hawaii INC under sole source procurement agreements.

Second, your Committee questions the use of sole source procurement agreements to acquire professional advertising, public relations, and marketing services. It appears that these are general services, which could be provided by a number of qualified firms.

Your Committee has therefore amended this concurrent resolution to provide that the audit include the following:

- (1) An examination and inquiry into the acquisition and application of videotex terminals to encourage and promote the development of an information industry for the State of Hawaii;
- (2) An examination and inquiry into whether other firms could provide professional advertising, public relations, and marketing services, and an assessment of the use of sole source procurement agreements by Hawaii INC to acquire these services;
- (3) A review of all reports associated with the acquisition of equipment and services by Hawaii INC through sole source procurement agreements, and an assessment of the use of sole source procurement agreements by Hawaii INC to acquire these items; and
- (4) An examination of all records of board of directors meetings to verify and ensure that there is no conflict of interest between the executive director and the board members of Hawaii INC.

Your Committee has also amended this concurrent resolution by requesting that the legislative auditor hire a certified public accounting firm, which by itself, or through teaming with a subcontractor, is knowledgeable about information service providers and the development of information services, to conduct the abovementioned audit.

Your Committee on Science, Technology and Economic Development concurs with the intent and purpose of S.C.R. No. 104, as amended herein, and recommends that it be adopted in the form attached hereto as S.C.R. No. 104, S.D. 1.

Signed by all members of the Committee.

SCRep. 2689 Science, Technology and Economic Development on S.C.R. No. 139

The purpose of this concurrent resolution is to request the legislative auditor to examine and investigate the department of budget and finance with respect to its contractual arrangement for the purchase of SELEX telephone equipment from GTE Hawaiian Tel. The legislative auditor shall determine whether the department should have provided for competitive bidding under chapter 103, Hawaii Revised Statutes, for the SELEX system, and whether there are any irregularities associated with that acquisition.

Your Committee examined and questioned the conditions and decisions associated with the procurement of the State's present telecommunication system. After receiving testimony, your Committee's deep concerns on the following issues lead to the belief that a thorough investigation is justified:

- (1) The selection of a SELEX system under a sole source acquisition exemption when bidding of both a PBX system and the SELEX system as a solution to the State's telecommunication requirements would have indicated the most economical system. Further, it would have provided a strong incentive to GTE Hawaiian Tel, as the only provider of SELEX, to price its system at the lowest cost practicable;
- (2) After expenditure of approximately \$400,000 and the completion of several studies over several years, the PBX system was still the preferred choice. In a matter of months, the SELEX system was selected and finalized without documentation of the reasons and considerations by the department; and
- (3) The price differences paid for equipment acquired under sole source and bid have not been adequately explained. In addition, there appear to be excessive charges for installation and maintenance of the telephone instruments.

Your Committee on Science, Technology and Economic Development concurs with the intent and purpose of S.C.R. No. 139 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2690 Planning, Land and Water Use Management on S.C.R. No. 70

The purpose of this Concurrent Resolution is to authorize the Board of Land and Natural Resources to award an easement or lease of submerged lands at Ewa, Oahu to Haseko (Hawaii), Inc. to develop and operate a marina.

Section 171-53(c), Hawaii Revised Statutes, authorizes the Board to grant easements or lease submerged public lands with the prior approval of the Governor and authorization of the Legislature by concurrent resolution. This Concurrent Resolution fulfills the legislative requirements, but does not constitute approval of Board decisions relating to the conservation district use application or relieve the Board of the authority and responsibility to review the application.

Your Committee finds that a full-scale marina at Ewa will help meet the recreational needs of Hawaii's boaters, serve as an attraction to international competitions, and stimulate business and light industry.

Your Committee has amended this Concurrent Resolution by specifying that the easement or lease will be limited to not more than five acres of submerged land and by correcting a typographical error.

Your Committee on Planning, Land and Water Use Management concurs with the intent and purpose of S.C.R. No. 70, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 70, S.D. 1.

Signed by all members of the Committee except Senator Chang.

SCRep. 2691 Employment and Public Institutions on H.C.R. No. 159

The purpose of this Concurrent Resolution is to approve the compensation plans for state, Judiciary, and county employees.

Pursuant to Sections 77-4 and 77-5, Hawaii Revised Statutes, each odd-numbered year the Conference of Personnel Directors reviews the compensation plans and submits recommendations to the Public Employees Compensation Appeals Board (PECAB). After hearing appeals and determining adjustments, PECAB submits a report, the final compensation plans, and the costs thereof to the Legislature for review and approval. This Concurrent Resolution constitutes legislative approval and will enable implementation of the Plans effective July 1, 1992.

Your Committee on Employment and Public Institutions concurs with the intent and purpose of H.C.R. No. 159 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2692 Employment and Public Institutions on S.C.R. No. 105

The purpose of this Concurrent Resolution is to request the Legislative Reference Bureau to report on issues relating to the State Satellite Office pilot project.

Specifically, the Bureau would determine the feasibility of establishing an office for East Honolulu (Kaimuki to Hawaii Kai) and assigning all photographic State I.D. functions to the satellite offices, and the most appropriate administrative disposition of the Program, including the civil service status of its employees.

The Satellite Office pilot project was established in 1990 in the Governor's Office of Information with \$300,000 to develop systems by which the general public may obtain state services and information relating to state government. The enabling legislation did not specify the duration of the project; however, the initial report from the Office of Information indicates that it should continue at least until June 30, 1993, and perhaps be made permanent.

Your Committee supports appropriate efforts to make government services and information available to the general public, and notes that the City and County of Honolulu has realized great success with its satellite City Halls. The State Satellite Program has the same potential, albeit on a grander scale, and should be assessed with an eye to expansion, as provided in this Concurrent Resolution.

Your Committee on Employment and Public Institutions concurs with the intent and purpose of S.C.R. No. 105 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2693 (Joint) Employment and Public Institutions and Education on S.C.R. No. 181

The purpose of this Concurrent Resolution is to request the Board of Education to initiate an ad hoc interim committee to discuss and make recommendations on proposals for restructuring the teacher classification and compensation schedules.

The committee would consist of the Superintendent of Education, the exclusive representative of bargaining unit (5), the Director of Personnel Services, the Chairperson of the Hawaii Labor Relations Board, and representatives from the University of Hawaii and the Judiciary. The Board will submit a report to the 1993 Legislature.

Collective bargaining for public employment was enacted in 1970 and specifically excludes salary ranges and job classification as negotiable items, rendering them the sole prerogative of the State. Although specific salaries falling within each range are negotiable, the ranges themselves have not been amended since 1970, and the teacher classifications that determine into which range the individual is placed remain substantially the same as they were in the pre-collective bargaining era. In anticipation of impending negotiations, your Committees find it appropriate for the parties to establish ground rules that include consideration of innovative alternatives to the current antiquated schedules.

Your Committees have amended this Concurrent Resolution by deleting all but the directly interested parties.

Your Committees on Employment and Public Institutions and Education concur with the intent and purpose of S.C.R. No. 181, as amended herein, and recommend its adoption in the form attached hereto as S.C.R. No. 181, S.D. 1.

Signed by all members of the Committees.

SCRep. 2694 (Joint) Employment and Public Institutions and Education on S.R. No. 146

The purpose of this Resolution is to request the Board of Education to initiate an ad hoc interim committee to discuss and make recommendations on proposals for restructuring the teacher classification and compensation schedules.

The committee would consist of the Superintendent of Education, the exclusive representative of bargaining unit (5), the Director of Personnel Services, the Chairperson of the Hawaii Labor Relations Board, and representatives from the University of Hawaii and the Judiciary. The Board will submit a report to the 1993 Legislature.

Collective bargaining for public employment was enacted in 1970 and specifically excludes salary ranges and job classification as negotiable items, rendering them the sole prerogative of the State. Although specific salaries falling within each range are negotiable, the ranges themselves have not been amended since 1970, and the teacher classifications that determine into which range the individual is placed remain substantially the same as they were in the pre-collective

bargaining era. In anticipation of impending negotiations, your Committees find it appropriate for the parties to establish ground rules that include consideration of innovative alternatives to the current antiquated schedules.

Your Committees have amended this Resolution by deleting all but the directly interested parties.

Your Committees on Employment and Public Institutions and Education concur with the intent and purpose of S.R. No. 146, as amended herein, and recommend its adoption in the form attached hereto as S.R. No. 146, S.D. 1.

Signed by all members of the Committees.

SCRep. 2695 Health and Human Services on S.C.R. No. 69

The purpose of this concurrent resolution is to celebrate the National Week of the Young Child and recognize the need for adequate wages and benefits for child care professionals.

Your Committee finds that child care professionals are the critical link which allows many parents to remain in the workforce and keep their family self-sustaining. Currently, Hawaii is facing an increasing demand for child care, yet the field of child care professionals is diminishing. Your Committee further finds that low wages in the fields of child care and early childhood education exacerbate the shortage of professionals who often leave for higher paying positions. The quality of child care is critical to the future development of our State, and the responsibilities of child care professionals need to be recognized through reasonable compensation.

Your Committee on Health and Human Services concurs with the intent and purpose of S.C.R. No. 69 and recommends its adoption.

Signed by all members of the Committee except Senator Koki.

SCRep. 2696 Health and Human Services on S.C.R. No. 77

The purpose of this Concurrent Resolution is to request the development of a comprehensive long-range plan for Hansen's disease patients.

Your Committee finds that the health care needs of Hansen's disease patients are changing due to the aging of the population. Your Committee further finds that pursuant to section 326-40, Hawaii Revised Statutes, it is the policy of the State to provide Hansen's disease patients with adequate health care and other services for the remainder of their lives. Testimony in support of this Concurrent Resolution was presented by the Department of Health.

Your Committee has amended the title and substance of this Concurrent Resolution by indicating this should be a comprehensive long-range health care plan. Technical amendments were also made for the purposes of style and clarity.

Your Committee on Health and Human Services concurs with the intent and purpose of S.C.R. No. 77, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 77, S.D. 1.

Signed by all members of the Committee except Senator Koki.

SCRep. 2697 Health and Human Services on S.C.R. No. 51

The purpose of this Concurrent Resolution is to request the Department of Health to examine alternatives to expedite enforcement of health violations on private property.

Your Committee finds that existing law prescribes certain responsibilities to the Department of Health to prevent situations which are hazardous to the general health and safety of the community. Such responsibilities include abatement, destruction, and removal of nuisances, foul or noxious gases, and sources of filth and disease. The Department receives many complaints about hazardous situations at business and residential premises, and issues notices to the responsible parties to remedy the situation. Your Committee further finds that in the event of noncompliance with the notice, the court process to enforce compliance is lengthy and the premises remain hazardous. Your Committee believes that an alternative process, including automatic imposition of administrative fines by the Department, should be investigated.

Your Committee on Health and Human Services concurs with the intent and purpose of S.C.R. No. 51 and recommends its adoption.

Signed by all members of the Committee except Senator Koki.

SCRep. 2698 Health and Human Services on S.C.R. No. 50

The purpose of this concurrent resolution is to request the Department of Human Services to examine Maryland's health promotion plan, known as the "Ounce of Prevention Plan".

Your Committee finds that the "Ounce of Prevention Plan" is based upon the belief that health care is a right which carries with it certain responsibilities. The Plan requires welfare recipients to undergo routine medical screenings and receive other preventive care, such as immunizations, as a condition of eligibility for financial and medical assistance. Your Committee further finds that a similar program in Hawaii might fit well within our health care system, but only if it is appropriate and nonpunitive. Your Committee notes that the Maryland plan is heavily weighted towards women and urges the Department to include health care needs of men, such as screening for prostate cancer, in the development of a proposal for Hawaii.

Your Committee on Health and Human Services concurs with the intent and purpose of S.C.R. No. 50 and recommends its adoption.

Signed by all members of the Committee except Senator Koki.

SCRep. 2699 Health and Human Services on S.R. No. 38

The purpose of this resolution is to request the Department of Human Services to examine Maryland's health promotion plan, known as the "Ounce of Prevention Plan".

Your Committee finds that the "Ounce of Prevention Plan" is based upon the belief that health care is a right which carries with it certain responsibilities. The Plan requires welfare recipients to undergo routine medical screenings and receive other preventive care, such as immunizations, as a condition of eligibility for financial and medical assistance. Your Committee further finds that a similar program in Hawaii might fit well within our health care system, but only if it is appropriate and nonpunitive. Your Committee notes that the Maryland plan is heavily weighted towards women and urges the Department to include health care needs of men, such as screening for prostate cancer, in the development of a proposal for Hawaii.

Your Committee on Health and Human Services concurs with the intent and purpose of S.R. No. 38 and recommends its adoption.

Signed by all members of the Committee except Senator Koki.

SCRep. 2700 Health and Human Services on S.C.R. No. 57

The purpose of this Concurrent Resolution is to request the housing programs of each county to consider allowing residents of county housing projects to operate child care facilities out of their homes.

Your Committee finds that lack of sufficient and convenient child care facilities is an issue of compelling public interest that affects many of Hawaii's young working families. Since the counties have the authority to permit facilities in county housing projects, it is appropriate to explore this avenue as a means of addressing the child care facility shortage.

Your Committee on Health and Human Services concurs with the intent and purpose of S.C.R. No. 57 and recommends its adoption.

Signed by all members of the Committee except Senator Koki.

SCRep. 2701 Health and Human Services on S.R. No. 44

The purpose of this Resolution is to request the housing programs of each county to consider allowing residents of county housing projects to operate child care facilities out of their homes.

Your Committee finds that lack of sufficient and convenient child care facilities is an issue of compelling public interest that affects many of Hawaii's young working families. Since the counties have the authority to permit facilities in county housing projects, it is appropriate to explore this avenue as a means of addressing the child care facility shortage.

Your Committee on Health and Human Services concurs with the intent and purpose of S.R. No. 44 and recommends its adoption.

Signed by all members of the Committee except Senator Koki.

SCRep. 2702 Health and Human Services on S.C.R. No. 59

The purpose of this concurrent resolution is to request the Department of Health to conduct an investigation regarding the availability of health care services within Hawaii, especially in rural areas.

Your Committee finds that various laws have been enacted over the last two decades to ensure that quality health care is available to all Hawaii residents. Your Committee further finds that despite these laws, equal access to quality health care is not available statewide, partially due to the lack of providers. Your Committee believes that it is appropriate to request the Department of Health to conduct this investigation, in conjunction with any other entities willing to provide assistance to the Department.

Your Committee on Health and Human Services concurs with the intent and purpose of S.C.R. No. 59 and recommends its adoption.

Signed by all members of the Committee except Senator Koki.

SCRep. 2703 Health and Human Services on S.R. No. 46

The purpose of this resolution is to request the Department of Health to conduct an investigation regarding the availability of health care services within Hawaii, especially in rural areas.

Your Committee finds that various laws have been enacted over the last two decades to ensure that quality health care is available to all Hawaii residents. Your Committee further finds that despite these laws, equal access to quality health care is not available statewide, partially due to the lack of providers. Your Committee believes that it is appropriate to

request the Department of Health to conduct this investigation, in conjunction with any other entities willing to provide assistance to the Department.

Your Committee on Health and Human Services concurs with the intent and purpose of S.R. No. 46 and recommends its adoption.

Signed by all members of the Committee except Senator Koki.

SCRep. 2704 Health and Human Services on S.C.R. No. 160

The purpose of this Concurrent Resolution is to study repetitive child abuse and evaluate the multi-disciplinary approach used in its diagnosis and treatment.

Your Committee received testimony from many of Hawaii's pediatricians indicating that child abuse cases are increasing in both number and severity. Your Committee finds that the relationships among team members within the multi-disciplinary approach developed to detect and prevent child abuse has deteriorated. Your Committee further finds that, because of the erosion of the team approach, many initial child abuse cases are going undetected, and repetitive, increasingly severe abuse is occurring. Your Committee believes that an immediate evaluation must be conducted to determine the extent of repetitive child abuse and to make recommendations for changes in both public and private agency responses to the problem.

Your Committee has amended this Concurrent Resolution and its title by clarifying that the study should identify, if possible, the causes of repetitive child abuse, identify gaps in the multi-disciplinary approach, and make recommendations to improve the interaction, accessibility, and accountability of those involved in the observation, diagnosis, treatment planning, and management of child abuse cases.

Your Committee on Health and Human Services concurs with the intent and purpose of S.C.R. No. 160, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 160, S.D. 1.

Signed by all members of the Committee except Senator Koki.

SCRep. 2705 Health and Human Services on S.R. No. 127

The purpose of this Resolution is to study repetitive child abuse and evaluate the multi-disciplinary approach used in its diagnosis and treatment.

Your Committee received testimony from many of Hawaii's pediatricians indicating that child abuse cases are increasing in both number and severity. Your Committee finds that the relationships among team members within the multi-disciplinary approach developed to detect and prevent child abuse has deteriorated. Your Committee further finds that, because of the erosion of the team approach, many initial child abuse cases are going undetected, and repetitive, increasingly severe abuse is occurring. Your Committee believes that an immediate evaluation must be conducted to determine the extent of repetitive child abuse and to make recommendations for changes in both public and private agency responses to the problem.

Your Committee has amended this Resolution and its title by clarifying that the study should identify, if possible, the causes of repetitive child abuse, identify gaps in the multi-disciplinary approach, and make recommendations to improve the interaction, accessibility, and accountability of those involved in the observation, diagnosis, treatment planning, and management of child abuse cases.

Your Committee on Health and Human Services concurs with the intent and purpose of S.R. No. 127, as amended herein, and recommends that it be referred to the Committee on Legislative Management, in the form attached hereto as S.R. No. 127, S.D. 1.

Signed by all members of the Committee except Senator Koki.

SCRep. 2706 (Joint) Housing and Hawaiian Programs and Education on S.C.R. No. 173

The purpose of this Concurrent Resolution is to request the Hawaii Housing Authority (HHA) to work with the Department of Education (DOE) in consultation with the Hawaii State Teachers Association (HSTA) to address teacher concerns regarding teacher housing.

Your Committees find that Hawaii has experienced difficulty in recruiting and retaining teachers in rural areas of the state. The lack of affordable housing in those areas is a significant reason for the difficulty in recruiting teachers.

Your Committees received testimony that the HHA, the DOE, and the HSTA are presently working together to address teacher concerns regarding teacher housing. Testimony indicated that talks between the groups have been productive and are continuing to resolve mutual concerns. HHA, DOE, and HSTA have mutually agreed that all candidates for site managers for teacher housing will be considered, including those in collective bargaining unit six.

Consequently, your Committees have amended this Concurrent Resolution to delete the provisions that stated:

- (1) Probationary teachers feel inhibited in raising their concerns regarding management of teacher housing units because their work supervisor is site manager; and
- (2) Site managers would be provided that are not members of collective bargaining unit six.

Your Committees amended the title for conciseness and style.

Your Committees on Housing and Hawaiian Programs and Education concur with the intent and purpose of S.C.R. No. 173, as amended herein, and recommend its adoption in the form attached hereto as S.C.R. No. 173, S.D. 1.

Signed by all members of the Committees.

SCRep. 2707 Housing and Hawaiian Programs on S.R. No. 138

The purpose of this resolution is to commend the service agencies and organizations which comprise the Hui 'Imi Task Force for their work in studying the service areas of the needs of Hawaiians, the services available to meet those needs, and to make recommendations on improving accessibility, the quality of coordination, and the provision of future services to Hawaiians. This resolution urges that the recommendations of the Hui 'Imi Task Force be adopted and implemented.

Your Committee finds that the members of the Task Force worked diligently and in the spirit of cooperation in developing their recommendations and that the recommendations of the Task Force must be implemented if they are to serve the purpose for which they were developed.

Your Committee on Housing and Hawaiian Programs concurs with the intent and purpose of S.R. No. 138 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2708 Housing and Hawaiian Programs on S.C.R. No. 172

The purpose of this concurrent resolution is to commend the service agencies and organizations which comprise the Hui 'Imi Task Force for their work in studying the service areas of the needs of Hawaiians, the services available to meet those needs, and to make recommendations on improving accessibility, the quality of coordination, and the provision of future services to Hawaiians. This concurrent resolution urges that the recommendations of the Hui 'Imi Task Force be adopted and implemented.

Your Committee finds that the members of the Task Force worked diligently and in the spirit of cooperation in developing their recommendations and that the recommendations of the Task Force must be implemented if they are to serve the purpose for which they were developed.

Your Committee on Housing and Hawaiian Programs concurs with the intent and purpose of S.C.R. No. 172 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2709 Ways and Means on S.C.R. No. 221

The purpose of this concurrent resolution is to request the department of taxation to draft legislation to address the general excise tax treatment of wholesaling services.

Your Committee finds that the current provisions addressing the general excise tax treatment of wholesale services are confusing and have caused considerable litigation. The confusion stems from several areas, including the terms used to define wholesale services, and the inconsistent results that have been adjudicated. Your Committee also finds that there have been several unrelated reports that have proposed ideas to remedy the pyramiding of general excise taxes on services that have been the sources of numerous bills introduced in the last few years.

Your Committee finds that the effects of many of the proposed changes in the general excise tax law cannot be immediately ascertained and it would be beneficial to the State to systematically explore the implications of any change to the application of the general excise tax law before another change is implemented.

Your Committee on Ways and Means concurs with the intent and purpose of S.C.R. No. 221 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2710 Ways and Means on S.R. No. 184

The purpose of this resolution is to request the department of taxation to draft legislation to address the general excise tax treatment of wholesaling services.

Your Committee finds that the current provisions addressing the general excise tax treatment of wholesale services are confusing and have caused considerable litigation. The confusion stems from several areas, including the terms used to define wholesale services, and the inconsistent results that have been adjudicated. Your Committee also finds that there have been several unrelated reports that have proposed ideas to remedy the pyramiding of general excise taxes on services that have been the sources of numerous bills introduced in the last few years.

Your Committee finds that the effects of many of the proposed changes in the general excise tax law cannot be immediately ascertained and it would be beneficial to the State to systematically explore the implications of any change to the application of the general excise tax law before another change is implemented.

Your Committee on Ways and Means concurs with the intent and purpose of S.R. No. 184 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2711 Health and Human Services on S.R. No. 39

The purpose of this Resolution is to request the Department of Health to examine alternatives to expedite enforcement of health violations on private property.

Your Committee finds that existing law prescribes certain responsibilities to the Department of Health to prevent situations which are hazardous to the general health and safety of the community. Such responsibilities include abatement, destruction, and removal of nuisances, foul or noxious gases, and sources of filth and disease. The Department receives many complaints about hazardous situations at business and residential premises, and issues notices to the responsible parties to remedy the situation. Your Committee further finds that in the event of noncompliance with the notice, the court process to enforce compliance is lengthy and the premises remain hazardous. Your Committee believes that an alternative process, including automatic imposition of administrative fines by the Department, should be investigated.

Your Committee on Health and Human Services concurs with the intent and purpose of S.R. No. 39 and recommends its adoption.

Signed by all members of the Committee except Senator Koki.

SCRep. 2712 Health and Human Services on S.R. No. 59

The purpose of this Resolution is to request the Legislative Reference Bureau to study and report on issues relating to childhood cancer.

The study will include an examination of support services relating to information on treatments, medical procedures, decision-making, hospital services, the health care team, counseling, and transportation for treatment, as well as the education and establishment of a public network comprised of schools, employers, and peers, provision of assistance in meeting health care costs and understanding insurance, and preparation counseling for possible relapses. The Bureau will solicit assistance from the Hawaii Children's Cancer Foundation, HUGS, the American Cancer Society, the Childhood Cancer Committee, Kapiolani Medical Center, Queen's Hospital Radiology Department, and the Cancer Research Center, and submit a report of findings and recommendations prior to the 1993 Regular Session.

Your Committee finds that childhood cancer is a major cause of death in young people in Hawaii and throughout the country. This study will provide vital information regarding the needs of Hawaii's residents, gaps in services, and remedies that may be implemented to close the gaps.

Your Committee has amended this Resolution by adding the Medicaid Division of the Department of Human Services, the Departments of Health and Education, and relevant third party payors to the list of consultants, and providing for transmittal of copies of this Resolution to each consulting agency. In addition, your Committee has made some technical changes that have no substantive effect.

Your Committee on Health and Human Services concurs with the intent and purpose of S.R. No. 59, as amended herein, and recommends that it be referred to the Committee on Legislative Management in the form attached hereto as S.R. No. 59, S.D. 1.

Signed by all members of the Committee except Senator Yamasaki.

SCRep. 2713 Health and Human Services on S.C.R. No. 76

The purpose of this Concurrent Resolution is to request the Legislative Reference Bureau to study and report on issues relating to childhood cancer.

The study will include an examination of support services relating to information on treatments, medical procedures, decision-making, hospital services, the health care team, counseling, and transportation for treatment, as well as the education and establishment of a public network comprised of schools, employers, and peers, provision of assistance in meeting health care costs and understanding insurance, and preparation counseling for possible relapses. The Bureau will solicit assistance from the Hawaii Children's Cancer Foundation, HUGS, the American Cancer Society, the Childhood Cancer Committee, Kapiolani Medical Center, Queen's Hospital Radiology Department, and the Cancer Research Center, and submit a report of findings and recommendations prior to the 1993 Regular Session.

Your Committee finds that childhood cancer is a major cause of death in young people in Hawaii and throughout the country. This study will provide vital information regarding the needs of Hawaii's residents, gaps in services, and remedies that may be implemented to close the gaps.

Your Committee has amended this Concurrent Resolution by adding the Medicaid Division of the Department of Human Services, the Departments of Health and Education, and relevant third party payors to the list of consultants, and providing for transmittal of copies of this Concurrent Resolution to each consulting agency. In addition, your Committee has made some technical changes that have no substantive effect.

Your Committee on Health and Human Services concurs with the intent and purpose of S.C.R. No. 76, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 76, S.D. 1.

Signed by all members of the Committee except Senator Yamasaki.

SCRep. 2714 Health and Human Services on S.R. No. 60

The purpose of this Resolution is to request the Legislative Reference Bureau to study and measure the short and long-term impact of proposed cutbacks in the State's General Assistance Program.

Most of Hawaii's General Assistance (welfare) recipients receive health care through the state/federal Medicaid Program, but in recent years Medicaid in Hawaii has experienced a shortfall in funds required to reimburse participating physicians, necessitating large legislative appropriations to enable the State to meet its obligations. Now, the Department of Human Services has proposed several ways of reducing the shortfall, all of which are premised to some extent on a cutback in General Assistance.

This Resolution requests the Bureau, in consultation with the Departments of Health, Human Services, Public Safety, and Labor and Industrial Relations, the Housing Finance and Development Corporation, and the Health Care Financing Administration, to study the anticipated effects the various proposals would have on Hawaii's General Assistance Program and the social and economic arenas, and identify systemic dynamics in the areas of employment, health, housing, and corrections as well as legislative policy implications. In addition, the Bureau will examine proposals originating in other venues that may be appropriate remedies for Hawaii's problems. A report will be submitted prior to the 1993 Regular Session.

Your Committee finds that the Medicaid shortfall presents serious implications relating to the State's ability to meet the health and welfare needs of its citizens. This study will provide valuable information that will help the Legislature determine appropriate policy alternatives and objectives.

Your Committee has amended this Resolution by clarifying in the fifth "WHEREAS" clause that one of the proposals is to refer General Assistance to a federally funded category rather than a one hundred percent federally funded category.

Your Committee on Health and Human Services concurs with the intent and purpose of S.R. No. 60, as amended herein, and recommends that it be referred to the Committee on Legislative Management in the form attached hereto as S.R. No. 60, S.D. 1.

Signed by all members of the Committee except Senator Yamasaki.

SCRep. 2715 Health and Human Services on S.C.R. No. 80

The purpose of this Concurrent Resolution is to request the Legislative Reference Bureau to study and measure the short and long-term impact of proposed cutbacks in the State's General Assistance Program.

Most of Hawaii's General Assistance (welfare) recipients receive health care through the state/federal Medicaid Program, but in recent years Medicaid in Hawaii has experienced a shortfall in funds required to reimburse participating physicians, necessitating large legislative appropriations to enable the State to meet its obligations. Now, the Department of Human Services has proposed several ways of reducing the shortfall, all of which are premised to some extent on a cutback in General Assistance.

This Concurrent Resolution requests the Bureau, in consultation with the Departments of Health, Human Services, Public Safety, and Labor and Industrial Relations, the Housing Finance and Development Corporation, and the Health Care Financing Administration, to study the anticipated effects the various proposals would have on Hawaii's General Assistance Program and the social and economic arenas, and identify systemic dynamics in the areas of employment, health, housing, and corrections as well as legislative policy implications. In addition, the Bureau will examine proposals originating in other venues that may be appropriate remedies for Hawaii's problems. A report will be submitted prior to the 1993 Regular Session.

Your Committee finds that the Medicaid shortfall presents serious implications relating to the State's ability to meet the health and welfare needs of its citizens. This study will provide valuable information that will help the Legislature determine appropriate policy alternatives and objectives.

Your Committee has amended this Concurrent Resolution by clarifying in the fifth "WHEREAS" clause that one of the proposals is to refer General Assistance to a federally funded category rather than a one hundred percent federally funded category.

Your Committee on Health and Human Services concurs with the intent and purpose of S.C.R. No. 80, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 80, S.D. 1.

Signed by all members of the Committee except Senator Yamasaki.

SCRep. 2716 Transportation and Intergovernmental Relations on S.C.R. No. 97

The purpose of this Concurrent Resolution is to request that an interdepartmental and intergovernmental committee be formed to study flood control measures and the condition of present infrastructure on the North Shore of Oahu.

Your Committee finds that the dangerous and economically damaging problem of flooding on Oahu's North Shore requires proper attention to determine what needs to be done to eliminate it.

Your Committee has amended the Concurrent Resolution by adding another be-it-further-resolved paragraph to have the interdepartmental and intergovernmental committee select from among its members a lead agency for the study.

Your Committee on Transportation and Intergovernmental Relations concurs with the intent and purpose of S.C.R. No. 97, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 97, S.D. 1.

Signed by all members of the Committee.

SCRep. 2717 Transportation and Intergovernmental Relations on S.C.R. No. 153

The purpose of this Concurrent Resolution is to request that the Department of Transportation study and report to the Legislature on motorcycle and motor scooter helmet use in Hawaii.

Your Committee finds that currently there is not enough hard data to make a decision on whether Hawaii should mandate helmet use for motorcycle and motor scooter operators and passengers.

Your Committee has amended the Concurrent Resolution by adding five additional whereas clauses on the lack of statistics or the problem of contradictory data on the correlation between no helmet use and severe head injuries or death. Your Committee has also added a be-it-further-resolved clause to request that the study and report include a review of other states' experiences.

Your Committee on Transportation and Intergovernmental Relations concurs with the intent and purpose of S.C.R. No. 153, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 153, S.D. 1.

Signed by all members of the Committee.

SCRep. 2718 Transportation and Intergovernmental Relations on S.C.R. No. 155

The purpose of this Concurrent Resolution is to reject the federal mandate requiring states to revoke driver's licenses of drug offenders or suffer the loss of part of their federal funds as an unwelcome and offensive intrusion into the rights of the states to manage their own affairs.

Your Committee believes that the Hawaii State Legislature should have the right to determine whether to enact legislation to revoke driver licenses of drug offenders and not be mandated by a rider to federal funds earmarked for the State.

Your Committee has amended the Concurrent Resolution by adding a whereas clause noting that because first certification of state compliance is required by April 1, 1993, the legislature and the governor must act this year to reject the federal mandate. Your Committee also amended the title for clarity and specificity.

Your Committee on Transportation and Intergovernmental Relations concurs with the intent and purpose of S.C.R. No. 155, as amended herein, and recommends that it be referred to the Committee on Ways and Means, in the form attached hereto as S.C.R. No. 155, S.D. 1.

Signed by all members of the Committee.

SCRep. 2719 Transportation and Intergovernmental Relations on S.R. No. 76

The purpose of this Resolution is to request a pilot program and accompanying studies to determine if the replacement of existing freeway plants with xerophytic plants would contribute significantly to the conservation of the State's drinking water supply.

Your Committee finds that public consumption and use of water has, at times, seriously taxed our wells. It would therefore be prudent to seek ways to conserve it to ensure future supply.

Your Committee on Transportation and Intergovernmental Relations concurs with the intent and purpose of S.R. No. 76 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2720 Employment and Public Institutions on S.C.R. No. 49

The purpose of this Concurrent Resolution is to request Hawaii's Congressional Delegation to do everything in its power to exonerate Captain Charles Butler McVay, III, who was unjustly court-martialed by the Navy in 1945 for alleged negligence in command of the USS Indianapolis.

The Concurrent Resolution also requests a Presidential Unit Citation for the USS Indianapolis and its crew and survivors for courage in the face of tremendous hardship and adversity.

Captain McVay was in command of the ill-fated Indianapolis when it was torpedoed on July 30, 1945 en route from Guam to Leyte in the Philippines. Naval intelligence had placed Japanese submarines in the area but failed to warn Captain McVay. Of the 1,196 crew members, only 316 survived injuries, drowning, and five days of incessant shark attacks. Records and information presented at the court-martial were incomplete but tended to indicate that Captain McVay, a decorated and superior officer, was innocent of any negligence or wrongful orders. Indeed, there is substantial evidence that the charge was trumped up, the trial truncated and expedited, and the issue obfuscated to protect the Navy's ambition to be a major player in post-war global military affairs.

Your Committee believes that factual accounts clearly establish Captain McVay as a fine and courageous commander of unblemished reputation until the sinking of the USS Indianapolis. The horror of the aftermath of that tragedy, coming as it did at the end of the war in the Pacific, blurred perspectives and tainted judgement. Captain McVay was victimized 47 years ago, and for his surviving family and the survivors and families of the Indianapolis, it is incumbent on the President and Congress to make right this egregious miscarriage of justice.

Your Committee has amended this Concurrent Resolution, including its title, to reflect the request for a Presidential Unit Citation. Your Committee has also made some technical changes that have no substantive effect.

Your Committee on Employment and Public Institutions concurs with the intent and purpose of S.C.R. No. 49, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 49, S.D. 1.

Signed by all members of the Committee.

SCRep. 2721 Employment and Public Institutions on S.R. No. 37

The purpose of this Resolution is to request Hawaii's Congressional Delegation to do everything in its power to exonerate Captain Charles Butler McVay, III, who was unjustly court-martialed by the Navy in 1945 for alleged negligence in command of the USS Indianapolis.

The Resolution also requests a Presidential Unit Citation for the USS Indianapolis and its crew and survivors for courage in the face of tremendous hardship and adversity.

Captain McVay was in command of the ill-fated Indianapolis when it was torpedoed on July 30, 1945 en route from Guam to Leyte in the Philippines. Naval intelligence had placed Japanese submarines in the area but failed to warn Captain McVay. Of the 1,196 crew members, only 316 survived injuries, drowning, and five days of incessant shark attacks. Records and information presented at the court-martial were incomplete but tended to indicate that Captain McVay, a decorated and superior officer, was innocent of any negligence or wrongful orders. Indeed, there is substantial evidence that the charge was trumped up, the trial truncated and expedited, and the issue obfuscated to protect the Navy's ambition to be a major player in post-war global military affairs.

Your Committee believes that factual accounts clearly establish Captain McVay as a fine and courageous commander of unblemished reputation until the sinking of the USS Indianapolis. The horror of the aftermath of that tragedy, coming as it did at the end of the war in the Pacific, blurred perspectives and tainted judgement. Captain McVay was victimized 47 years ago, and for his surviving family and the survivors and families of the Indianapolis, it is incumbent on the President and Congress to make right this egregious miscarriage of justice.

Your Committee has amended this Resolution, including its title, to reflect the request for a Presidential Unit Citation. Your Committee has also made some technical changes that have no substantive effect.

Your Committee on Employment and Public Institutions concurs with the intent and purpose of S.R. No. 37, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 37, S.D. 1.

Signed by all members of the Committee.

LCRep. 2722 Executive Appointments on Gov. Msg. Nos. 250, 252, 253, 254, 255, 256, 257, 258, and 259

Recommending that the Senate advise and consent to the nominations of the following:

WINTHROP SCOTT SCHAEFER to the State Emergency Medical Services Advisory Committee, term to expire June 30, 1993 (Gov. Msg. No. 250);

GERALDINE L. MASUNAGA, R.N., and STEPHEN L. SCHUMM to the State Emergency Medical Services Advisory Committee, terms to expire June 30, 1994 (Gov. Msg. No. 250);

CURTIS MATSUI to the State Emergency Medical Services Advisory Committee, term to expire June 30, 1995 (Gov. Msg. No. 250);

DAVID SCOTT GILBERT, R.N., MIRIAM K. KAHALEKAI, PATRICIA JEAN KELFORD, KENNETH T. ONO and LINDA MARIE ROSEN, M.D., to the State Emergency Medical Services Advisory Committee, terms to expire June 30, 1996 (Gov. Msg. No. 250);

PATRICIA ALLEN ESTES, MPH, to the Statewide Health Coordinating Council, term to expire June 30, 1995 (Gov. Msg. No. 252);

WILLIAM R. FLANDERS, ALICE Y. KIM, CATHERINE NOBRIGA KIM, and THERESA SMITH, M.D., to the Statewide Health Coordinating Council, terms to expire June 30, 1996 (Gov. Msg. No. 252);

DARLENE G. MCKINLEY to the Honolulu Subarea Health Planning Council, term to expire June 30, 1994 (Gov. Msg. No. 253);

ELIZABETH GIESTING, WALTER S. KIRIMITSU, RODNEY T. SAĞAGUCHI, VALISA SAUNDERS, R.N., SEYMOUR SCHANDLER and SANDRA J. WELLS to the Honolulu Subarea Health Planning Council, terms to expire June 30, 1996 (Gov. Msg. No. 253);

RICHARD F. KOLBE to the Central Oahu Subarea Health Planning Council, term to expire June 30, 1994 (Gov. Msg. No. 254);

JACQUELINE G. BACON, KATHLEEN Y. DOI, R.N., CARL T. HAMADA and ADELA G. SANIDAD to the Central Oahu Subarea Health Planning Council, terms to expire June 30, 1996 (Gov. Msg. No. 254);

DONNA L. BROOME, L. RIKI CHEEVER, AIRLEEN LUCERO to the Waianae Coast Subarea Health Planning Council, terms to expire June 30, 1993 (Gov. Msg. No. 255);

BARBARA ELIZABETH CAMPBELL, MARY OJERIO and THOMAS J.K. WOLFE, R.N., to the Waianae Coast Subarea Health Planning Council, terms to expire June 30, 1996 (Gov. Msg. No. 255);

NANCY K.Y. YUEN to the Windward Oahu Subarea Health Planning Council, term to expire June 30, 1993 (Gov. Msg. No. 256);

HARVEY W. SMITH to the Windward Oahu Subarea Health Planning Council, term to expire June 30, 1994 (Gov. Msg. No. 256);

ARNOLD Y. MATSUNOBU, NATALIE ODA and ANUJA A. SABNIS to the Windward Oahu Subarea Health Planning Council, terms to expire June 30, 1996 (Gov. Msg. No. 256);

CYNTHIA K. SORENSON to the Hawaii County Subarea Health Planning Council, term to expire June 30, 1995 (Gov. Msg. No. 257);

ANH N. LAMBETH, EMMA K.S. LAU, R.N., KENJI NAGAO, ALBERT A. NAKAJI, KIYOTOSHI OZAKI and THERESA SMITH, M.D., to the Hawaii County Subarea Health Planning Council, terms to expire June 30, 1996 (Gov. Msg. No. 257);

MICHAEL A. FAYE to the Kauai County Subarea Health Planning Council, term to expire June 30, 1995 (Gov. Msg. No. 258);

KEITH HORINOUCHE, D.H.Sc., LAURA JEAN KAWAMURA, ABEL MEDEIROS, CHARLENE K. ONO, R.N., and ORIANNA A. SKOMOROCH to the Kauai County Subarea Health Planning Council, terms to expire June 30, 1996 (Gov. Msg. No. 258); and

WILLIAM COLLINS DRURY and GARY ROBERT to the Maui County Subarea Health Planning Council, terms to expire June 30, 1996 (Gov. Msg. No. 259).

Signed by all members of the Committee.

SCRep. 2723 Planning, Land and Water Use Management on S.C.R. No. 64

The purpose of this Concurrent Resolution is to request Hawaii County to develop strategies and take specific measures to mitigate damage due to volcano hazards and lava flow inundations.

The strategies and measures, based to a large extent on guidelines and recommendations published by the Federal Emergency Management Agency (FEMA) in October, 1990, include:

- (1) Preparatory review of land use policies and laws with consideration for other state and county land use policies and objectives;
- (2) Institution of a clear and comprehensive policy relating protection of life and property to development in lava hazard areas;
- (3) Discouragement of higher density development in lava flow zones 1 and 2 in Kilauea's east rift until risk is appropriately reduced;
- (4) Consideration of the feasibility of reclassifying lands in lava flow zone 1 to conservation;
- (5) Examination of existing land uses in lava flow zones 1 and 2 to determine the potential risk to life and property, the costs of such losses in contrast with the costs of mitigation, and recommendations as appropriate;
- (6) Development of specific information regarding hazard areas 1 and 2, inundation and destruction, moving houses on public highways, and evacuation;
- (7) Consideration of enhancing communications among the Hawaii Volcano Observatory and the Hawaii County and state Civil Defense systems; and
- (8) Ensuring sufficient aerial surveillance and monitoring.

Your Committee finds that Hawaii County lacks a coordinated and comprehensive volcano/lava damage mitigation policy despite being classified an official disaster area since 1990 and incurring losses totaling more than \$60 million since 1983. With guidelines and recommendations from FEMA at its disposal, the County should be able to effectively accomplish the task set forth in this Concurrent Resolution.

Your Committee on Planning, Land and Water Use Management concurs with the intent and purpose of S.C.R. No. 64 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2724 Planning, Land and Water Use Management on S.R. No. 50

The purpose of this Resolution is to request Hawaii County to develop strategies and take specific measures to mitigate damage due to volcano hazards and lava flow inundations.

The strategies and measures, based to a large extent on guidelines and recommendations published by the Federal Emergency Management Agency (FEMA) in October, 1990, include:

- (1) Preparatory review of land use policies and laws with consideration for other state and county land use policies and objectives;
- (2) Institution of a clear and comprehensive policy relating protection of life and property to development in lava hazard areas;
- (3) Discouragement of higher density development in lava flow zones 1 and 2 in Kilauea's east rift until risk is appropriately reduced;
- (4) Consideration of the feasibility of reclassifying lands in lava flow zone 1 to conservation;
- (5) Examination of existing land uses in lava flow zones 1 and 2 to determine the potential risk to life and property, the costs of such losses in contrast with the costs of mitigation, and recommendations as appropriate;
- (6) Development of specific information regarding hazard areas 1 and 2, inundation and destruction, moving houses on public highways, and evacuation;
- (7) Consideration of enhancing communications among the Hawaii Volcano Observatory and the Hawaii County and state Civil Defense systems; and
- (8) Ensuring sufficient aerial surveillance and monitoring.

Your Committee finds that Hawaii County lacks a coordinated and comprehensive volcano/lava damage mitigation policy despite being classified an official disaster area since 1990 and incurring losses totaling more than \$60 million since 1983. With guidelines and recommendations from FEMA at its disposal, the County should be able to effectively accomplish the task set forth in this Resolution.

Your Committee on Planning, Land and Water Use Management concurs with the intent and purpose of S.R. No. 50 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2725 Planning, Land and Water Use Management on S.C.R. No. 184

The purpose of this Concurrent Resolution is to request the City and County of Honolulu to vacate premises at Kewalo Basin and Kokea Street currently being used for baseyard and incinerator facilities.

Pursuant to an agreement struck in 1987 the City was to receive approximately 26 acres of land at Sand Island for a corporation yard contingent on the City's developing, at its own expense, the remainder of Sand Island State Park and demolishing and clearing its facilities at Kewalo Basin and Kokea Street. To date it has not done so and cites as a reason the additional costs of constructing the Sand Island corporation yard.

Your Committee finds that the 1987 agreement explicitly conditioned the land transfer on specific facilities being built on Sand Island and the City vacating the premises in question. That the City wants additional facilities on Sand Island not contemplated by the agreement is irrelevant. The State needs the Kewalo and Kokea acreage for waterfront redevelopment and expansion of Honolulu Community College, and your Committee considers it incumbent upon the City to carry out its obligations as soon as possible.

Your Committee on Planning, Land and Water Use Management concurs with the intent and purpose of S.C.R. No. 184 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2726 Planning, Land and Water Use Management on S.R. No. 149

The purpose of this Resolution is to request the City and County of Honolulu to vacate premises at Kewalo Basin and Kokea Street currently being used for baseyard and incinerator facilities.

Pursuant to an agreement struck in 1987 the City was to receive approximately 26 acres of land at Sand Island for a corporation yard contingent on the City's developing, at its own expense, the remainder of Sand Island State Park and demolishing and clearing its facilities at Kewalo Basin and Kokea Street. To date it has not done so and cites as a reason the additional costs of constructing the Sand Island corporation yard.

Your Committee finds that the 1987 agreement explicitly conditioned the land transfer on specific facilities being built on Sand Island and the City vacating the premises in question. That the City wants additional facilities on Sand Island not contemplated by the agreement is irrelevant. The State needs the Kewalo and Kokea acreage for waterfront redevelopment and expansion of Honolulu Community College, and your Committee considers it incumbent upon the City to carry out its obligations as soon as possible.

Your Committee on Planning, Land and Water Use Management concurs with the intent and purpose of S.R. No. 149 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2727 (Joint) Planning, Land and Water Use Management and Culture, Arts and Historic Preservation on S.R. No. 65

The purpose of this Resolution is to authorize the Task Force to Preserve Waipio Valley to continue studying and assessing the feasibility of the proposed purchase of Waipio Valley by the State.

The Task Force, comprised of representatives from the Legislature, the Department of Land and Natural Resources, Hawaii County, Bishop Museum (the owner), Hamakua Sugar Company, and community organizations would submit a report to the 1993 Legislature. A student from Honokaa High School would be added to the Task Force as a non-voting member, to represent the interest of youth in the Hamakua District.

Purchase was first recommended by DLNR in 1986, for the purpose of protecting, preserving, and perpetuating the agricultural and cultural uses of the Valley for future generations. The Task Force was established in 1990 to study in-depth issues attendant to the prospective purchase. In 1991 it reported to the Legislature that it was as yet unable to issue recommendations, and in 1992 it became apparent that despite dedicated efforts, the Task Force would need at least another year to complete its work.

Purchasing a vital land area such as Waipio Valley requires comprehensive study. Concerns of residents and users must be met, and technical subjects such as hydrology, urban planning, and water rights must be weighed. Your Committees believe that the Task Force is pursuing its task conscientiously and that it will be able to complete its work and make the necessary recommendations by next session.

Your Committees on Planning, Land and Water Use Management and Culture, Arts and Historic Preservation concur with the intent and purpose of S.R. No. 65 and recommend its adoption.

Signed by all members of the Committees.

SCRep. 2728 (Joint) Planning, Land and Water Use Management and Culture, Arts and Historic Preservation on S.C.R. No. 86

The purpose of this Concurrent Resolution is to authorize the Task Force to Preserve Waipio Valley to continue studying and assessing the feasibility of the proposed purchase of Waipio Valley by the State.

The Task Force, comprised of representatives from the Legislature, the Department of Land and Natural Resources, Hawaii County, Bishop Museum (the owner), Hamakua Sugar Company, and community organizations would submit a report to the 1993 Legislature. A student from Honokaa High School would be added to the Task Force as a non-voting member, to represent the interest of youth in the Hamakua District.

Purchase was first recommended by DLNR in 1986, for the purpose of protecting, preserving, and perpetuating the agricultural and cultural uses of the Valley for future generations. The Task Force was established in 1990 to study in-depth issues attendant to the prospective purchase. In 1991 it reported to the Legislature that it was as yet unable to issue recommendations, and in 1992 it became apparent that despite dedicated efforts, the Task Force would need at least another year to complete its work.

Purchasing a vital land area such as Waipio Valley requires comprehensive study. Concerns of residents and users must be met, and technical subjects such as hydrology, urban planning, and water rights must be weighed. Your Committees believe that the Task Force is pursuing its task conscientiously and that it will be able to complete its work and make the necessary recommendations by next session.

Your Committees on Planning, Land and Water Use Management and Culture, Arts and Historic Preservation concur with the intent and purpose of S.C.R. No. 86 and recommend its adoption.

Signed by all members of the Committees.

SCRep. 2729 Health and Human Services on S.C.R. No. 118

The purpose of this Concurrent Resolution is to request the State and the City and County of Honolulu to provide adequate ambulance service to the Waianae Coast.

Your Committee finds that the residents of the Waianae Coast are isolated from many medical services due to their remote location on the island. Your Committee further finds that ambulance service which responds to emergency medical situations with life-saving technology should be available on an equal basis to all Hawaii residents. Your Committee strongly urges the State and the City and County of Honolulu Departments of Health to work expeditiously to resolve this situation.

Your Committee has amended this Concurrent Resolution by making technical amendments for the purposes of clarity and style which do not affect its substance.

Your Committee on Health and Human Services concurs with the intent and purpose of S.C.R. No. 118, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 118, S.D. 1.

Signed by all members of the Committee.

SCRep. 2730 Housing and Hawaiian Programs on S.C.R. No. 226

The purpose of this Concurrent Resolution is to recognize that as trustee of ceded lands and Hawaiian home lands, the State of Hawaii has breached its trust responsibility to its own indigenous people, the native Hawaiians, and to extend a formal apology from the Legislature for the breach of trust by the State to all of the Hawaiian people who were adversely affected by the actions or inactions of the State.

Your Committee finds that under the terms of the Admission Act and the Hawaiian Homes Commission Act, 1920, the State of Hawaii is trustee of the ceded lands returned to Hawaii upon statehood and of those lands set aside to be used as Hawaiian home lands. Your Committee further finds that by the State's failure to distinguish between ceded trust lands and non-ceded public lands, commingling funds generated from ceded lands with those from non-ceded public lands, use of trust funds for non-trust purposes, the State, as trustee of the ceded lands, has breached its fiduciary obligation to native Hawaiians. Additionally, as trustee of lands set aside as Hawaiian home lands, the State of Hawaii has breached its trust obligation to native Hawaiians by, *inter alia*, the improper withdrawal and set aside of thousands of acres of Hawaiian home lands and allowing the use of Hawaiian home lands by federal and state agencies for little or no compensation to the beneficiaries.

Your Committee has amended the title for clarity and made technical amendments for the purposes of clarity and style which do not affect the substance of this Concurrent Resolution.

Your Committee on Housing and Hawaiian Programs concurs with the intent and purpose of S.C.R. No. 226, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 226, S.D. 1.

Signed by all members of the Committee.

SCRep. 2731 Housing and Hawaiian Programs on S.C.R. No. 227

The purpose of this concurrent resolution is to declare the legislature's support for the nomination of the Protect Kaho'olawe 'Ohana for the 1993 Right Livelihood Award and to express the legislature's appreciation for the outstanding work of the 'Ohana.

The Right Livelihood Award is an international peace award previously awarded to such persons as Mahatma Gandhi and the Reverend Martin Luther King. Your Committee finds that the Protect Kaho'olawe 'Ohana has been an advocate of non-violence in its efforts to restore and protect the island of Kaho'olawe and is an appropriate nominee for such an award.

Your Committee on Housing and Hawaiian Programs concurs with the intent and purpose of S.C.R. No. 227 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2732 Planning, Land and Water Use Management on S.C.R. No. 33

The purpose of this Concurrent Resolution is to extend by one year the deadline by which the State must execute a lease for the private development of the Keehi Lagoon Triangle.

Pursuant to a 1988 Concurrent Resolution, the Board of Land and Natural Resources and the Department of Transportation were authorized to lease approximately 300 acres of submerged land in Keehi Lagoon to a private developer for commercial, recreational, educational, research, and light industry purposes, provided the lease is executed by July 1, 1993. The Department of Transportation submitted its final Environmental Impact Statement in 1990 identifying numerous permits and approvals that must be obtained and actions that must be taken before development may commence. No private developer is willing to risk entering a lease without this business having been disposed of, and although the Department is doing its best, it is apparent that the July 1, 1993 deadline cannot be met.

This Concurrent Resolution extends the deadline to July 1, 1994.

Your Committee finds that the project is still desirable and feasible and that delays in obtaining clearances have been unavoidable. Therefore, extension of the deadline is reasonable.

Your Committee has amended this Concurrent Resolution and its title to clarify that the State's role is to lease rather than develop. Your Committee has also made several nonsubstantive technical changes for the purposes of clarity and style.

Your Committee on Planning, Land and Water Use Management concurs with the intent and purpose of S.C.R. No. 33, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 33, S.D. 1.

Signed by all members of the Committee.

SCRep. 2733 Planning, Land and Water Use Management on S.C.R. No. 130

The purpose of this Concurrent Resolution is to request the Commission on Water Resource Management to finalize, adopt, and put into place a system to identify, preserve, and protect key streams and areas of streams as part of the public trust.

The Commission would also design specifications for a streamkeeper position to represent the public in environmental decisions relating to Hawaii's streams.

The Commission is requested to submit the language for the system and the position request to the 1993 Legislature.

The State Water Code calls for a Water Resources Protection Plan, and the Commission is currently developing stream protection policies and a stream management plan. However, it will be unable to finish this work by January, 1993, and it is unclear at this point exactly what role the streamkeeper would perform within the plan and what qualifications and duties should be required. In view of these considerations, your Committee has amended this Concurrent Resolution by deleting the request for specifications of the streamkeeper position and extending the deadline for the report by one year.

Your Committee on Planning, Land and Water Use Management concurs with the intent and purpose of S.C.R. No. 130, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 130, S.D. 1.

Signed by all members of the Committee.

SCRep. 2734 Planning, Land and Water Use Management on S.R. No. 103

The purpose of this Resolution is to request the Commission on Water Resource Management to finalize, adopt, and put into place a system to identify, preserve, and protect key streams and areas of streams as part of the public trust.

The Commission would also design specifications for a streamkeeper position to represent the public in environmental decisions relating to Hawaii's streams.

The Commission is requested to submit the language for the system and the position request to the 1993 Legislature.

The State Water Code calls for a Water Resources Protection Plan, and the Commission is currently developing stream protection policies and a stream management plan. However, it will be unable to finish this work by January, 1993, and it is unclear at this point exactly what role the streamkeeper would perform within the plan and what qualifications and duties should be required. In view of these considerations, your Committee has amended this Resolution by deleting the request for specifications of the streamkeeper position and extending the deadline for the report by one year.

Your Committee on Planning, Land and Water Use Management concurs with the intent and purpose of S.R. No. 103, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 103, S.D. 1.

Signed by all members of the Committee.

SCRep. 2735 Planning, Land and Water Use Management on S.C.R. No. 186

The purpose of this Concurrent Resolution is to request the Commission on Water Resource Management, in conjunction with the Board of Land and Natural Resources and the water board of each county, to invite interested parties from the public and private sectors to an interim conference for the purpose of developing a state water conservation plan.

The plan would include policies and objectives relating to reduction of water demand, improved efficiency in use and land management practices, and preservation and enhancement of state waters for all uses including recreation, agriculture, and navigation. The Commission will submit its draft plan to the 1993 Legislature.

Your Committee finds that a state water conservation plan will promote wise and efficient use and ensure that clean, potable, and sufficient water is continuously available to serve the needs of the public and private sectors.

Your Committee has amended this Concurrent Resolution by requesting that the Commission and Boards obtain input from the interested parties rather than meet in a formal conference.

Your Committee on Planning, Land and Water Use Management concurs with the intent and purpose of S.C.R. No. 186, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 186, S.D. 1.

Signed by all members of the Committee.

SCRep. 2736 Planning, Land and Water Use Management on S.R. No. 151

The purpose of this Resolution is to request the Commission on Water Resource Management, in conjunction with the Board of Land and Natural Resources and the water board of each county, to invite interested parties from the public and private sectors to an interim conference for the purpose of developing a state water conservation plan.

The plan would include policies and objectives relating to reduction of water demand, improved efficiency in use and land management practices, and preservation and enhancement of state waters for all uses including recreation, agriculture, and navigation. The Commission will submit its draft plan to the 1993 Legislature.

Your Committee finds that a state water conservation plan will promote wise and efficient use and ensure that clean, potable, and sufficient water is continuously available to serve the needs of the public and private sectors.

Your Committee has amended this Resolution by requesting that the Commission and Boards obtain input from the interested parties rather than meet in a formal conference.

Your Committee on Planning, Land and Water Use Management concurs with the intent and purpose of S.R. No. 151, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 151, S.D. 1.

Signed by all members of the Committee.

SCRep. 2737 Planning, Land and Water Use Management on S.C.R. No. 215

The purpose of this Concurrent Resolution is to request the Army Corps of Engineers to study and report on methods of reducing sediment and improving the quality of coastal waters fronting Spencer County Beach Park and the Puukohala Heiau National Historic Park at Kawaihae, Hawaii.

In 1973 the coral reef on the harbor side of the breakwater and landfill area of Kawaihae Commercial Deep Draft Harbor was dredged, and the dredged material was used as fill for the southeastern end of the harbor to allow future expansion. However, construction of the Commercial Deep Draft Harbor has caused the quality of waters off Samuel Spencer County Beach Park and environs to deteriorate, and the runoff from Makeahua Gulch into Kawaihae Bay near the coral fill area has added sediment.

The Department of Transportation has indicated that it will assist the Corps and Hawaii County with this project.

Your Committee on Planning, Land and Water Use Management concurs with the intent and purpose of S.C.R. No. 215 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2738 Planning, Land and Water Use Management on S.R. No. 179

The purpose of this Resolution is to request the Army Corps of Engineers to study and report on methods of reducing sediment and improving the quality of coastal waters fronting Spencer County Beach Park and the Puukohala Heiau National Historic Park at Kawaihae, Hawaii.

In 1973 the coral reef on the harbor side of the breakwater and landfill area of Kawaihae Commercial Deep Draft Harbor was dredged, and the dredged material was used as fill for the southeastern end of the harbor to allow future expansion. However, construction of the Commercial Deep Draft Harbor has caused the quality of waters off Samuel Spencer County Beach Park and environs to deteriorate, and the runoff from Makeahua Gulch into Kawaihae Bay near the coral fill area has added sediment.

The Department of Transportation has indicated that it will assist the Corps and Hawaii County with this project.

Your Committee on Planning, Land and Water Use Management concurs with the intent and purpose of S.R. No. 179 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2739 Planning, Land and Water Use Management on S.C.R. No. 237

The purpose of this Concurrent Resolution is to request the Department of Accounting and General Services to study and report on the feasibility of converting the Oahu Railway and Land Terminal edifice in Liliha, Oahu into a civic center.

Specifically, the Department is requested to determine the funds needed to renovate the building and establish the civic center and submit legislation appropriate to accomplish the task.

A civic center would include a one-stop shop for access to social, housing, employment, educational, and health services, facilities for twenty-four hour service, and shared facilities, equipment, and human resources.

Your Committee finds that the Oahu Railway and Land Terminal building is of historical significance and well located for the purpose envisioned by this Concurrent Resolution. However, the Department of Accounting and General Services is reluctant to report on anticipated costs of a project whose design and construction would not be implemented for several years. Therefore, your Committee has amended this Concurrent Resolution by deleting the specific requests regarding funding and legislation, thus allowing the Department the flexibility to report on feasibility without being locked into specific albeit nonbinding estimates.

Your Committee on Planning, Land and Water Use Management concurs with the intent and purpose of S.C.R. No. 237, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 237, S.D. 1.

Signed by all members of the Committee.

SCRep. 2740 Planning, Land and Water Use Management on S.R. No. 198

The purpose of this Resolution is to request the Department of Accounting and General Services to study and report on the feasibility of converting the Oahu Railway and Land Terminal edifice in Liliha, Oahu into a civic center.

Specifically, the Department is requested to determine the funds needed to renovate the building and establish the civic center and submit legislation appropriate to accomplish the task.

A civic center would include a one-stop shop for access to social, housing, employment, educational, and health services, facilities for twenty-four hour service, and shared facilities, equipment, and human resources.

Your Committee finds that the Oahu Railway and Land Terminal building is of historical significance and well located for the purpose envisioned by this Resolution. However, the Department of Accounting and General Services is reluctant to report on anticipated costs of a project whose design and construction would not be implemented for several years. Therefore, your Committee has amended this Resolution by deleting the specific requests regarding funding and legislation, thus allowing the Department the flexibility to report on feasibility without being locked into specific albeit nonbinding estimates.

Your Committee on Planning, Land and Water Use Management concurs with the intent and purpose of S.R. No. 198, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 198, S.D. 1.

Signed by all members of the Committee.

SCRep. 2741 (Majority) Consumer Protection and Business Regulation on S.C.R. No. 15

The purpose of this Concurrent Resolution is to request that manufacturers and retailers adopt and adhere to a code for responsible environmental advertising and for the State's Office of Consumer Protection to adopt such a code through rules.

Your Committee received testimony which supported the intent of the measure from the Department of Commerce and Consumer Affairs (DCCA) and the Hawaii Food Industry Association (HFIA).

Although in general support of the measure as written, the DCCA indicated that it is not prepared at the present time to adopt a comprehensive code based upon The Green Report referred to in the Concurrent Resolution.

The HFIA was concerned that promulgation of mandatory rules at this time would be unfair as it has no control over products manufactured in other jurisdictions. It was, however, willing to abide by reasonable "guidelines" in this area.

Accordingly, your Committee has amended the title and body of the measure to request that guidelines rather than requirements be adopted by the DCCA and has added the HFIA to the transmittal clause.

Your Committee on Consumer Protection and Business Regulation concurs with the intent and purpose of S.C.R. No. 15, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 15, S.D. 1.

Signed by all members of the Committee.
Senator Koki did not concur.

SCRep. 2742 (Majority) Consumer Protection and Business Regulation on S.R. No. 14

The purpose of this Resolution is to request that manufacturers and retailers adopt and adhere to a code for responsible environmental advertising and for the State's Office of Consumer Protection to adopt such a code through rules.

Your Committee received testimony which supported the intent of the measure from the Department of Commerce and Consumer Affairs (DCCA) and the Hawaii Food Industry Association (HFIA).

Although in general support of the measure as written, the DCCA indicated that it is not prepared at the present time to adopt a comprehensive code based upon The Green Report referred to in the Resolution.

The HFIA was concerned that promulgation of mandatory rules at this time would be unfair as it has no control over products manufactured in other jurisdictions. It was, however, willing to abide by reasonable "guidelines" in this area.

Accordingly, your Committee has amended the title and body of the measure to request that guidelines rather than requirements be adopted by the DCCA and has added the HFIA to the transmittal clause.

Your Committee on Consumer Protection and Business Regulation concurs with the intent and purpose of S.R. No. 14, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 14, S.D. 1.

Signed by all members of the Committee.
Senator Koki did not concur.

SCRep. 2743 Consumer Protection and Business Regulation on S.C.R. No. 72

The purpose of this Concurrent Resolution is to request the establishment of a panel to determine the need for regulating the practice of locksmithing in the State.

Your Committee finds that to be a self-employed locksmith in the State, one only needs to obtain a general excise tax license. Although a majority of the State's locksmiths belong to the Associated Locksmiths of America, Inc., (ALOA), and adhere to its professional code of ethics, there remains a potential opportunity for those with locksmithing expertise to abuse their skills.

The Concurrent Resolution would establish a panel to determine if the need for regulation of locksmiths exists.

Your Committee on Consumer Protection and Business Regulation concurs with the intent and purpose of S.C.R. No. 72 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2744 Consumer Protection and Business Regulation on S.R. No. 55

The purpose of this Resolution is to request the establishment of a panel to determine the need for regulating the practice of locksmithing in the State.

Your Committee finds that to be a self-employed locksmith in the State, one only needs to obtain a general excise tax license. Although a majority of the State's locksmiths belong to the Associated Locksmiths of America, Inc., (ALOA), and adhere to its professional code of ethics, there remains a potential opportunity for those with locksmithing expertise to abuse their skills.

The Resolution would establish a panel to determine if the need for regulation of locksmiths exists.

Your Committee on Consumer Protection and Business Regulation concurs with the intent and purpose of S.R. No. 55 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2745 Consumer Protection and Business Regulation on S.C.R. No. 136

The purpose of this Concurrent Resolution is to request the Legislative Reference Bureau study the advantages and disadvantages of allowing the establishment of limited liability companies (LLC) in the State.

Your Committee received testimony in support of the measure from the Department of Commerce and Consumer Affairs and a local law firm.

Your Committee finds that limited liability companies operate for profit and limit their owners' liabilities similar to corporations but are treated for federal tax purposes as partnerships. During this Legislative Session, S.B. No. 3368, A Bill For An Act Relating To Limited Liability Companies, was introduced to establish a State Limited Liability Company Act. However, your Committee held the bill due to concerns over whether the United States Internal Revenue Service will actually recognize the federal tax classification of the LLC as a partnership; how the enterprises established as LLC's in their home state will be treated in states without LLC laws; and the impact of allowing LLC formations in Hawaii.

Based on these concerns, your Committee finds that the Legislative Reference Bureau study is appropriate.

Your Committee on Consumer Protection and Business Regulation concurs with the intent and purpose of S.C.R. No. 136 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2746 Consumer Protection and Business Regulation on S.R. No. 107

The purpose of this Resolution is to request the Legislative Reference Bureau study the advantages and disadvantages of allowing the establishment of limited liability companies (LLC) in the State.

Your Committee received testimony in support of the measure from the Department of Commerce and Consumer Affairs and a local law firm.

Your Committee finds that limited liability companies operate for profit and limit their owners' liabilities similar to corporations but are treated for federal tax purposes as partnerships. During this Legislative Session, S.B. No. 3368, A Bill For An Act Relating To Limited Liability Companies, was introduced to establish a State Limited Liability Company Act. However, your Committee held the bill due to concerns over whether the United States Internal Revenue Service will actually recognize the federal tax classification of the LLC as a partnership; how the enterprises established as LLC's in their home state will be treated in states without LLC laws; and the impact of allowing LLC formations in Hawaii.

Based on these concerns, your Committee finds that the Legislative Reference Bureau study is appropriate.

Your Committee on Consumer Protection and Business Regulation concurs with the intent and purpose of S.R. No. 107, and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 2747 Consumer Protection and Business Regulation on S.C.R. No. 161

The purpose of this Concurrent Resolution is to request that the United States Congress support legislation proposed in "The Earthquake Project" to provide federally sponsored earthquake insurance coverage for homeowners.

Testimony in support of the measure was received from the State Department of Defense and the Hawaii Council of the National Association of Independent Insurers.

Your Committee finds that Hawaii has been identified as a "high risk" earthquake area. If a major earthquake ever did occur, local insurers would very likely be financially overwhelmed. By creating a federally backed insurance program for earthquake victims and damage, the cost of such unforeseeable events could be spread throughout the nation rather than absorbed locally.

Your Committee has made nonsubstantive technical amendments for the purposes of clarity and style.

Your Committee on Consumer Protection and Business Regulation concurs with the intent and purpose of S.C.R. No. 161 and recommends its adoption in the form attached hereto as S.C.R. No. 161, S.D. 1.

Signed by all members of the Committee.

SCRep. 2748 Consumer Protection and Business Regulation on S.R. No. 128

The purpose of this Resolution is to request that the United States Congress support legislation proposed in "The Earthquake Project" to provide federally sponsored earthquake insurance coverage for homeowners.

Testimony in support of the measure was received from the State Department of Defense and the Hawaii Counsel of the National Association of Independent Insurers.

Your Committee finds that Hawaii has been identified as a "high risk" earthquake area. If a major earthquake ever did occur, local insurers would very likely be financially overwhelmed. By creating a federally backed insurance program for earthquake victims and damage, the cost of such unforeseeable events could be spread throughout the nation rather than absorbed locally.

Your Committee has made nonsubstantive technical amendments for the purposes of clarity and style.

Your Committee on Consumer Protection and Business Regulation concurs with the intent and purpose of S.R. No. 128 and recommends its adoption in the form attached hereto as S.R. No. 128, S.D. 1.

Signed by all members of the Committee.

SCRep. 2749 Transportation and Intergovernmental Relations on S.C.R. No. 84

The purpose of this Concurrent Resolution is to request a study to determine whether speed bumps should be installed in residential areas.

Your Committee has amended the Concurrent Resolution by deleting its title and substance and inserting new language to request that the Departments of Education, Accounting and General Services, and Health develop procedures to mitigate construction dust, noise, and fumes at the public schools, including the possibility of performing work during non-school hours.

Your Committee finds that construction work during regular school hours provides a distraction to teaching and learning and may pose health and safety problems.

Your Committee on Transportation and Intergovernmental Relations concurs with the intent and purpose of S.C.R. No. 84, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 84, S.D. 1.

Signed by all members of the Committee.

SCRep. 2750 Transportation and Intergovernmental Relations on S.R. No. 63

The purpose of this Resolution is to request a study to determine whether speed bumps should be installed in residential areas.

Your Committee has amended the Resolution by deleting its title and substance and inserting new language to request that the Departments of Education, Accounting and General Services, and Health develop procedures to mitigate construction dust, noise, and fumes at the public schools, including the possibility of performing work during non-school hours.

Your Committee finds that construction work during regular school hours provides a distraction to teaching and learning and may pose health and safety problems.

Your Committee on Transportation and Intergovernmental Relations concurs with the intent and purpose of S.R. No. 63, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 63, S.D. 1.

Signed by all members of the Committee.

SCRep. 2751 Health and Human Services on S.C.R. No. 75

The purpose of this Concurrent Resolution is to request the Department of Health to collect cost data on trauma associated with the use of non-use of helmets by motorcycle, moped, and bicycle riders.

Your Committee finds that the debate continues about a mandatory helmet law, despite much convincing research and testimony supporting mandatory use of helmets. Your Committee has determined that it would be helpful to determine the costs of all medical services, health care, and other services provided to injured riders. Your Committee further finds that

collection of data through 1992 will provide historical and prospective data on injured riders by tracking their entry into the health care system through their diagnosis and ongoing treatment.

Your Committee, therefore, has amended the title and the substance of this Concurrent Resolution to request the Department of Health to coordinate statewide collection of morbidity, mortality, and cost data through 1992. Your Committee has also requested the participation of other hospitals within the Healthcare Association of Hawaii in the collection of data.

Your Committee on Health and Human Services concurs with the intent and purpose of S.C.R. No. 75, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 75, S.D. 1.

Signed by all members of the Committee.

SCRep. 2752 Health and Human Services on S.R. No. 58

The purpose of this Resolution is to request the Department of Health to collect cost data on trauma associated with the use of non-use of helmets by motorcycle, moped, and bicycle riders.

Your Committee finds that the debate continues about a mandatory helmet law, despite much convincing research and testimony supporting mandatory use of helmets. Your Committee has determined that it would be helpful to determine the costs of all medical services, health care, and other services provided to injured riders. Your Committee further finds that collection of data through 1992 will provide historical and prospective data on injured riders by tracking their entry into the health care system through their diagnosis and ongoing treatment.

Your Committee, therefore, has amended the title and the substance of this Resolution to request the Department of Health to coordinate statewide collection of morbidity, mortality, and cost data through 1992. Your Committee has also requested the participation of other hospitals within the Healthcare Association of Hawaii in the collection of data.

Your Committee on Health and Human Services concurs with the intent and purpose of S.R. No. 58, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 58, S.D. 1.

Signed by all members of the Committee.

SCRep. 2753 Health and Human Services on S.C.R. No. 156

The purpose of this Concurrent Resolution is to request the establishment of a child death review system for identifying deaths from child abuse and neglect.

Your Committee finds that presently there are three different groups independently studying child deaths, but there is no coordination among the groups. Your Committee further finds that while prevention of death from child abuse and neglect is traditionally seen as the responsibility of human service agencies, it has become apparent that an interdisciplinary approach including social service agencies, medical providers, law enforcement, coroners and medical examiners, prosecuting attorneys, and the courts would be more effective. Testimony in support of this Concurrent Resolution was presented by the Departments of Health, Human Services, and Education, the Judiciary, the Prosecuting Attorney of the City and County of Honolulu, and the Child Abuse and Neglect Secondary Prevention Advisory Committee.

Your Committee has amended the title and substance of this Concurrent Resolution to:

- (1) Reflect that the Child Welfare Services State Advisory Council will be the lead agency for this task force; and
- (2) Request the participation of the various entities involved with investigation of deaths from child abuse and neglect.

Your Committee on Health and Human Services concurs with the intent and purpose of S.C.R. No. 156, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 156, S.D. 1.

Signed by all members of the Committee.

SCRep. 2754 Health and Human Services on S.R. No. 123

The purpose of this Resolution is to request the establishment of a child death review system for identifying deaths from child abuse and neglect.

Your Committee finds that presently there are three different groups independently studying child deaths, but there is no coordination among the groups. Your Committee further finds that while prevention of death from child abuse and neglect is traditionally seen as the responsibility of human service agencies, it has become apparent that an interdisciplinary approach including social service agencies, medical providers, law enforcement, coroners and medical examiners, prosecuting attorneys, and the courts would be more effective. Testimony in support of this Resolution was presented by the Departments of Health, Human Services, and Education, the Judiciary, the Prosecuting Attorney of the City and County of Honolulu, and the Child Abuse and Neglect Secondary Prevention Advisory Committee.

Your Committee has amended the title and substance of this Resolution to:

- (1) Reflect that the Child Welfare Services State Advisory Council will be the lead agency for this task force; and
- (2) Request the participation of the various entities involved with investigation of deaths from child abuse and neglect.

Your Committee on Health and Human Services concurs with the intent and purpose of S.R. No. 123, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 123, S.D. 1.

Signed by all members of the Committee.

SCRep. 2755 Health and Human Services on S.C.R. No. 158

The purpose of this Concurrent Resolution is to request the Department of Health to convene a task force to conduct a comprehensive review of the needs of and services available to medically fragile/technology dependent children and their families.

Your Committee finds that the needs of medically fragile/technology dependent children and their families represent a complex challenge which requires the coordinated efforts of multiple agencies. Your Committee received testimony in support of this Concurrent Resolution from the Departments of Health, Human Services, and Education, the State Planning Council on Developmental Disabilities, and Kapiolani Medical Center for Women and Children.

Your Committee has amended this Concurrent Resolution by:

- (1) Designating the Kapiolani Medical Center for Women and Children as the lead agency for the task force;
- (2) Requesting the task force to make recommendations on the appropriate agency to assume responsibility for programs and services provided to medically fragile/technology dependent children, and a case management system which improves coordination of services and thereby decreases duplication of services; and
- (3) Making technical amendments for the purposes of clarity and style.

Your Committee on Health and Human Services concurs with the intent and purpose of S.C.R. No. 158, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 158, S.D. 1.

Signed by all members of the Committee.

SCRep. 2756 Health and Human Services on S.R. No. 125

The purpose of this Resolution is to request the Department of Health to convene a task force to conduct a comprehensive review of the needs of and services available to medically fragile/technology dependent children and their families.

Your Committee finds that the needs of medically fragile/technology dependent children and their families represent a complex challenge which requires the coordinated efforts of multiple agencies. Your Committee received testimony in support of this Resolution from the Departments of Health, Human Services, and Education, the State Planning Council on Developmental Disabilities, and Kapiolani Medical Center for Women and Children.

Your Committee has amended this Resolution by:

- (1) Designating the Kapiolani Medical Center for Women and Children as the lead agency for the task force;
- (2) Requesting the task force to make recommendations on the appropriate agency to assume responsibility for programs and services provided to medically fragile/technology dependent children, and a case management system which improves coordination of services and thereby decreases duplication of services; and
- (3) Making technical amendments for the purposes of clarity and style.

Your Committee on Health and Human Services concurs with the intent and purpose of S.R. No. 125, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 125, S.D. 1.

Signed by all members of the Committee.

SCRep. 2757 Health and Human Services on S.C.R. No. 199

The purpose of this Concurrent Resolution is to request a study on the staffing, decreasing population, and cost effectiveness of operating the Waimano Training School and Hospital.

Your Committee finds that the Department of Health has continued deinstitutionalization of Waimano patients, when appropriate, into community-based residential placements. Your Committee further finds that this decrease in Waimano's population has subsequently resulted in an increased demand for community-based services, without a concomitant increase in funding to support such services. The Department of Health testified that the current population at Waimano is increasingly difficult to manage due to their severe and profound disabilities, and that maintaining current staffing and funding levels is necessary to assure Medicaid certification. The State Planning Council on Developmental Disabilities testified that there is a continuing need to evaluate the effectiveness of institutionalization and to review ways to maximize funding from such sources as Medicaid for community-based care.

Your Committee has made technical amendments to this Concurrent Resolution for the purposes of clarity and style which do not affect its substance.

Your Committee on Health and Human Services concurs with the intent and purpose of S.C.R. No. 199, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 199, S.D. 1.

Signed by all members of the Committee.

SCRep. 2758 Health and Human Services on S.R. No. 163

The purpose of this Resolution is to request a study on the staffing, decreasing population, and cost effectiveness of operating the Waimano Training School and Hospital.

Your Committee finds that the Department of Health has continued deinstitutionalization of Waimano patients, when appropriate, into community-based residential placements. Your Committee further finds that this decrease in Waimano's population has subsequently resulted in an increased demand for community-based services, without a concomitant increase in funding to support such services. The Department of Health testified that the current population at Waimano is increasingly difficult to manage due to their severe and profound disabilities, and that maintaining current staffing and funding levels is necessary to assure Medicaid certification. The State Planning Council on Developmental Disabilities testified that there is a continuing need to evaluate the effectiveness of institutionalization and to review ways to maximize funding from such sources as Medicaid for community-based care.

Your Committee has made technical amendments to this Resolution for the purposes of clarity and style which do not affect its substance.

Your Committee on Health and Human Services concurs with the intent and purpose of S.R. No. 163, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 163, S.D. 1.

Signed by all members of the Committee.

SCRep. 2759 Judiciary on S.C.R. No. 66

The purpose of this concurrent resolution is to direct that the site selection study for the new Oahu Family Court Center include serious consideration of a facility with civil, criminal and family court divisions in the Ewa/Kapolei area.

Your Committee received testimony in support of the concurrent resolution from the chair and vice-chair of the Honolulu City Council, the Estate of James Campbell, West Oahu Employment Corporation, Makakilo Community Association, and the Social and Employment Services Incubator Project. Senators from West Oahu indicated their support of an Ewa/Kapolei site for the Family Court Center.

The Judiciary expressed concern that an expansion of the scope of the study will delay construction of the much-needed family court center.

Giving due consideration to all the testimony, your Committee amended the concurrent resolution so that the Judiciary is requested to seriously consider the construction of a district court facility in the Ewa/Kapolei area and to clarify that the development of the Oahu Family Court Center not be disrupted or hindered by that consideration. Your Committee believes that these amendments better express the intent of this resolution, which is to make legal services more accessible to the growing West Oahu community and ease overcrowding in downtown Honolulu.

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. No. 66, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 66, S.D. 1.

Signed by all members of the Committee.

SCRep. 2760 Judiciary on S.C.R. No. 112

The purpose of this concurrent resolution is to request the Lieutenant Governor to form a task force:

- (1) To examine the feasibility of transferring the responsibilities of overseeing elections from the Office of the Lieutenant Governor to a non-partisan commission;
- (2) To examine the feasibility of adding duties associated with Secretaries of State to the responsibilities of the Office of the Lieutenant Governor; and
- (3) To report its findings and recommendations to the 1993 Legislature.

This concurrent resolution also provides that the task force should consist of (1) the Lieutenant Governor or a designee; (2) the Director of the Department of Commerce and Consumer Affairs or a designee; (3) the Director of Finance or a designee; (4) a representative of the general community; and (5) a representative of the Association of Clerks and Elections Officers.

Supporting testimony was submitted by the Lieutenant Governor and the State Ethics Commission.

The rationale for removing election responsibilities from the duties of the Lieutenant Governor is to eliminate any appearance of conflict resulting from an elected official overseeing elections. Your Committee finds that this concurrent resolution will improve public confidence in the election process and provide a forum for suggesting more appropriate duties for the Lieutenant Governor.

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. No. 112, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2761 Judiciary on S.R. No. 88

The purpose of this resolution is to request the Lieutenant Governor to form a task force:

- (1) To examine the feasibility of transferring the responsibilities of overseeing elections from the Office of the Lieutenant Governor to a non-partisan commission;
- (2) To examine the feasibility of adding duties associated with Secretaries of State to the responsibilities of the Office of the Lieutenant Governor; and
- (3) To report its findings and recommendations to the 1993 Legislature.

This resolution also provides that the task force should consist of (1) the Lieutenant Governor or a designee; (2) the Director of the Department of Commerce and Consumer Affairs or a designee; (3) the Director of Finance or a designee; (4) a representative of the general community; and (5) a representative of the Association of Clerks and Elections Officers.

Supporting testimony was submitted by the Lieutenant Governor and the State Ethics Commission.

The rationale for removing election responsibilities from the duties of the Lieutenant Governor is to eliminate any appearance of conflict resulting from an elected official overseeing elections. Your Committee finds that this resolution will improve public confidence in the election process and provide a forum for suggesting more appropriate duties for the Lieutenant Governor.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 88, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2762 Judiciary on S.C.R. No. 119

The purpose of this concurrent resolution is to direct the Center for Alternative Dispute Resolution to convene a series of discussions for the purpose of evaluating current adoption practices and making recommendations to improve them.

Testimony in support of the bill was submitted by the Department of Health, Office of Hawaiian Affairs, Hawaii State Commission on the Status of Women, Hawaii Psychiatric Medical Association, Committee for Adoption Reform Education, Adoption Circle of Hawaii, Inc., and Hawaii Psychological Association.

However, several groups, agencies and private individuals questioned the need for further evaluation of or improvements to Hawaii's adoption laws, expressing concern that the concurrent resolution is a step toward mandatory open adoptions, which may be more harmful than helpful.

Your Committee believes that discussions involving the various adoption groups will facilitate future deliberations by all three branches of government by clarifying the varied perceptions of issues and problems in the current adoption laws. This concurrent resolution gives these groups the opportunity to refine the discussion on issues that affect the people they serve.

In order to promote participation in the discussions and encourage consideration of different viewpoints, your Committee amended the concurrent resolution by adding to the list of suggested participants and by providing that neither the Center for Alternative Dispute Resolution nor the participants are to report back to the Legislature.

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. No. 119, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 119, S.D. 1.

Signed by all members of the Committee.

SCRep. 2763 Judiciary on S.C.R. No. 166

The purpose of this concurrent resolution is to direct the Judiciary to review the current method used to assign court cases to judges and to study the feasibility of a lottery option for the assigning of court cases.

The Judiciary expressed concern that a lottery system will impede its present efforts to establish more effective and efficient methods of caseload and caseload management.

Your Committee deleted the title and substance of the concurrent resolution and inserted language requesting the legislative auditor to conduct a study to review existing state and federal laws, policies and procedures that deal with grievances from persons who are denied access to services because of their membership in a particular class and to make recommendations on how to best address grievances based on the discriminatory denial of state and state-funded programs.

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. No. 166, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 166, S.D. 1.

Signed by all members of the Committee.

SCRep. 2764 Judiciary on S.R. No. 132

The purpose of this resolution is to direct the Judiciary to review the current method used to assign court cases to judges and to study the feasibility of a lottery option for the assigning of court cases.

The Judiciary expressed concern that a lottery system will impede its present efforts to establish more effective and efficient methods of caseload and caseload management.

Your Committee deleted the title and substance of the resolution and inserted language requesting the legislative auditor to conduct a study to review existing state and federal laws, policies and procedures that deal with grievances from persons who are denied access to services because of their membership in a particular class and to make recommendations on how to best address grievances based on the discriminatory denial of state and state-funded services.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 132, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 132, S.D. 1.

Signed by all members of the Committee.

SCRep. 2765 Judiciary on S.C.R. No. 245

The purpose of this concurrent resolution is to request the Legislative Reference Bureau to conduct a study to evaluate the current judicial nomination, selection, and appointment process and to recommend improvements accordingly.

Your Committee received testimony in support of this concurrent resolution from the Judiciary. The Hawaii State Bar Association supported the intent of the concurrent resolution but suggested that the reviewing body be more diverse and that the scope of the proposed study be broadened to insure full and objective consideration of all pertinent issues.

Giving due consideration to the testimony, your Committee amended this concurrent resolution by:

(1) Requesting that the Governor, the Chief Justice, the Judicial Selection Commission, the Hawaii State Bar Association and the American Judicature Society convene a second Hawaii Citizens' Conference on Judicial Selection to study, evaluate and make recommendations on the current judicial nomination, selection and appointment process;

(2) Deleting the requirement that the recommendations be calculated to promote open decision-making at each step of the process to give the reviewers more flexibility in determining what portions of the process, if any, would be improved by being made more open for public scrutiny; and

(3) Changing the title to reflect the changes to the concurrent resolution and making other conforming amendments.

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. No. 245, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 245, S.D. 1.

Signed by all members of the Committee.

SCRep. 2766 Judiciary on S.R. No. 205

The purpose of this resolution is to request the Legislative Reference Bureau to conduct a study to evaluate the current judicial nomination, selection, and appointment process and to recommend improvements accordingly.

Your Committee received testimony in support of this resolution from the Judiciary. The Hawaii State Bar Association supported the intent of the resolution but suggested that the reviewing body be more diverse and that the scope of the proposed study be broadened to insure full and objective consideration of all pertinent issues.

Giving due consideration to the testimony, your Committee amended this resolution by:

(1) Requesting that the Governor, the Chief Justice, the Judicial Selection Commission, the Hawaii State Bar Association and the American Judicature Society convene a second Hawaii Citizens' Conference on Judicial Selection to study, evaluate and make recommendations on the current judicial nomination, selection and appointment process;

(2) Deleting the requirement that the recommendations be calculated to promote open decision-making at each step of the process to give the reviewers more flexibility in determining what portions of the process, if any, would be improved by being made more open for public scrutiny; and

(3) Changing the title to reflect the changes to the resolution and making other conforming amendments.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 205, as amended herein, and recommends its referral to the Committee on Legislative Management in the form attached hereto as S.R. No. 205, S.D. 1.

Signed by all members of the Committee.

LCRep. 2767 Executive Appointments on Gov. Msg. No. 161

Recommending that the Senate advise and consent to the nomination of KEITH W. AHUE for Director of Labor and Industrial Relations, term to expire December 5, 1994.

Signed by all members of the Committee.

LCRep. 2768 Executive Appointments on Gov. Msg. No. 162

Recommending that the Senate advise and consent to the nomination of REX D. JOHNSON for Director of Transportation, term to expire December 5, 1994.

Signed by all members of the Committee.

LCRep. 2769 Executive Appointments on Gov. Msg. Nos. 274, 275, 277, 278, 281, 287, 288, 289, 290, 291, 292, 297, 298, and 299

Recommending that the Senate advise and consent to the nominations of the following:

JACKIE MAHI ERICKSON and RICHARD J. PORT to the Civil Rights Commission, terms to expire June 30, 1996 (Gov. Msg. No. 274);

SARAH K. CORDEIRO, GARY R.M. TASAKA, GENE J. DUMARAN and BARBARA MIGUEL to the Advisory Council for Community Services, terms to expire June 30, 1996 (Gov. Msg. No. 275);

RICHARD B. ABING Sr., to the Policy Advisory Board for Elder Affairs, term to expire June 30, 1993 (Gov. Msg. No. 277);

HARRY K.O. CHANG, COLETTE BROWNE, Dr. PH., ROLAND K. TATSUGUCHI, KIMIE LANE, SARAH K. CORREA, CHAMP S. ONO, MARK B. PERLMUTTER and FAITH C. AI LAI to the Policy Advisory Board for Elder Affairs, terms to expire June 30, 1996 (Gov. Msg. No. 277);

KENNETH T. MATSUURA to the Board of Trustees, Employees' Retirement System, term to expire January 1, 1997 (Gov. Msg. No. 278);

GARY K. IKI to the Board of Directors, High Technology Development Corporation, term to expire June 30, 1995 (Gov. Msg. No. 281);

LAWRENCE H. GORDON, M.D., to the Medical Advisory Board, term to expire June 30, 1993 (Gov. Msg. No. 287);

WILLIAM EDWARD WATTS II to the Medical Advisory Board, term to expire June 30, 1996 (Gov. Msg. No. 287);

MICHAEL E. REIERSON and GARY A. WASSEL to the Motor Vehicle Industry Licensing Board, terms to expire June 30, 1996 (Gov. Msg. No. 288);

YOSHIAKI UEHIRA and ROY T. OZAKI to the Motor Vehicle Repair Industry Board, terms to expire June 30, 1996 (Gov. Msg. No. 289);

ABRAHAM L. CHOY and ROSANNA WINTER to the Board of Examiners of Nursing Home Administrators, terms to expire June 30, 1996 (Gov. Msg. No. 290);

ARVID T. HARA to the Board of Dispensing Opticians, term to expire June 30, 1994 (Gov. Msg. No. 291);

MARGARITA L. HOPKINS to the Board of Examiners in Optometry, term to expire June 30, 1993 (Gov. Msg. No. 292);

SUSAN M. NAKASONE, O.D., to the Board of Examiners in Optometry, term to expire June 30, 1996 (Gov. Msg. No. 292);

THEO B. BUTUYAN, ALVIN M. IMAMURA and FRANCINE DUNCAN to the Real Estate Commission, terms to expire June 30, 1996 (Gov. Msg. No. 297);

SUELLEN J. KOTAKE, D.V.M., to the Board of Veterinary Examiners, term to expire June 30, 1996 (Gov. Msg. No. 298);

LAURA ROBERTSON to the Board of Vocational Rehabilitation, term to expire June 30, 1994 (Gov. Msg. No. 299);

CALVIN E. LO to the Board of Vocational Rehabilitation, term to expire June 30, 1995 (Gov. Msg. No. 299); and

MARY KAY HOFMANN to the Board of Vocational Rehabilitation, term to expire June 30, 1996 (Gov. Msg. No. 299).

Signed by all members of the Committee.

SCRep. 2770 Health and Human Services on S.C.R. No. 246

The purpose of this Concurrent Resolution is to request the Executive Office on Aging, and Departments of Health and Human Services, to convene an interagency adult residential care home (ARCH) advisory committee.

Your Committee finds that adult residential care homes, ARCH'S, have been providing community-based care for almost thirty years to many frail elders and other persons with disabilities. These ARCH's meet an increasing demand for community-based residential care due to the aging of our population and deinstitutionalization of other persons with disabilities. Your Committee further finds that public and private agencies need to work together to improve communication and coordination between agencies and ARCH operators, so that residents are assured adequate care and effective advocacy.

Your Committee has amended this Concurrent Resolution by:

- (1) Urging the executive agencies to assist in the organization of an interagency ARCH advisory committee;
- (2) Asking the Committee to discuss agency policies and procedures as they apply to ARCH operators and residents;
- (3) Including federal and private agencies in the exchange of information between the agencies and ARCH operators;
- (4) Including as members of the advisory committee ARCH resident advocates or the residents' family members, and a type II administrator; and
- (5) Making technical amendments for the purposes of clarity and style.

Your Committee on Health and Human Services concurs with the intent and purpose of S.C.R. No. 246, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 246, S.D. 1.

Signed by all members of the Committee.

SCRep. 2771 Culture, Arts and Historic Preservation on S.C.R. No. 200

The purpose of this concurrent resolution is to request the Department of Commerce and Consumer Affairs to consider the appropriateness of providing funding to Hawaii Public Radio to enable its listening audience to include the entire State.

Your Committee finds that Hawaii Public Radio is not available on Kauai and in some places on the island of Hawaii. Your Committee finds that many public radio stations receive local government funding and that the State partially funded the development of Hawaii Public Radio and some special projects. Government funding is required to enable all residents of Hawaii to receive Hawaii Public Radio.

Your Committee on Culture, Arts and Historic Preservation concurs with the intent and purpose of S.C.R. No. 200 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2772 Culture, Arts and Historic Preservation on S.C.R. No. 210

The purpose of this Concurrent Resolution is to encourage various state departments and agencies to assist the Samoan community in Hawaii in the celebration of its cultural heritage to commemorate the fortieth anniversary of a number of events significant in Samoan history, including the first major migration of Samoans to Hawaii.

Your Committee received testimony in support of this Concurrent Resolution from the Office of International Relations. Support also was expressed by Samoan chiefs who attended the hearing.

Your Committee finds that the Samoan community in Hawaii has made significant contributions to the multicultural society of our state in sports, entertainment, cultural enrichment and community service.

Your Committee amended this Concurrent Resolution to provide that the Office of the Governor, through the Office of International Relations, is to encourage all appropriate state department and agencies to assist the Samoan community in celebrating its cultural heritage throughout 1992.

Your Committee on Culture, Arts and Historic Preservation concurs with the intent and purpose of S.C.R. No. 210, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 210, S.D. 1.

Signed by all members of the Committee.

SCRep. 2773 Culture, Arts and Historic Preservation on S.R. No. 174

The purpose of this Resolution is to encourage various state departments and agencies to assist the Samoan community in Hawaii in the celebration of its cultural heritage to commemorate the fortieth anniversary of a number of events significant in Samoan history, including the first major migration of Samoans to Hawaii.

Your Committee received testimony in support of this Resolution from the Office of International Relations. Support also was expressed by Samoan chiefs who attended the hearing.

Your Committee finds that the Samoan community in Hawaii has made significant contributions to the multicultural society of our state in sports, entertainment, cultural enrichment and community service.

Your Committee amended this Resolution to provide that the Office of the Governor, through the Office of International Relations, is to encourage all appropriate state department and agencies to assist the Samoan community in celebrating its cultural heritage throughout 1992.

Your Committee on Culture, Arts and Historic Preservation concurs with the intent and purpose of S.R. No. 174, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 174, S.D. 1.

Signed by all members of the Committee.

SCRep. 2774 Planning, Land and Water Use Management on S.C.R. No. 23

The purpose of this Concurrent Resolution is to request the Office of State Planning to develop a plan for expanding and developing industries on the Neighbor Islands.

Beginning with the Burns era, economists and futurists have touted the efficacy of developing industries on the Neighbor Islands. Benefits would include a higher standard of living, an increased tax base, and some decentralization of the population. Many commissioned studies indicated the desirability of adopting this vision, but to date most industry remains on Oahu.

Your Committee finds that it is still appropriate to develop a formal strategy for diversifying industry onto the largely unpopulated and unindustrialized Islands of Hawaii, Kauai, and Maui. This Concurrent Resolution will provide the guidelines necessary to pursue this course of action as a policy with reachable objectives.

Your Committee has amended this Concurrent Resolution by designating the Department of Business, Economic Development, and Tourism as the lead agency, with assistance from the Office and Hawaii, Kauai, and Maui Counties.

Your Committee has also made some technical changes that have no substantive effect.

Your Committee on Planning, Land and Water Use Management concurs with the intent and purpose of S.C.R. No. 23, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 23, S.D. 1.

Signed by all members of the Committee.

SCRep. 2775 Planning, Land and Water Use Management on S.R. No. 21

The purpose of this Resolution is to request the Office of State Planning to develop a plan for expanding and developing industries on the Neighbor Islands.

Beginning with the Burns era, economists and futurists have touted the efficacy of developing industries on the Neighbor Islands. Benefits would include a higher standard of living, an increased tax base, and some decentralization of the population. Many commissioned studies indicated the desirability of adopting this vision, but to date most industry remains on Oahu.

Your Committee finds that it is still appropriate to develop a formal strategy for diversifying industry onto the largely unpopulated and unindustrialized Islands of Hawaii, Kauai, and Maui. This Resolution will provide the guidelines necessary to pursue this course of action as a policy with reachable objectives.

Your Committee has amended this Resolution by designating the Department of Business, Economic Development, and Tourism as the lead agency, with assistance from the Office and Hawaii, Kauai, and Maui Counties.

Your Committee has also made some technical changes that have no substantive effect.

Your Committee on Planning, Land and Water Use Management concurs with the intent and purpose of S.R. No. 21, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 21, S.D. 1.

Signed by all members of the Committee.

SCRep. 2776 Planning, Land and Water Use Management on S.C.R. No. 37

The purpose of this Concurrent Resolution is to request the Department of Land and Natural Resources to study and report on alternatives to address the threat of lava inundation on the Big Island.

The Department would be joined by Hawaii County, the Department of Defense, the federal government, and other interested parties.

Your Committee finds that the threat of lava inundation, which has revealed itself as an inevitability in high risk areas, demands tough decisions relating to future development and relocation of residences and businesses in order to avoid future catastrophes. To accomplish this, it is necessary to marshal all relevant public and private agencies to work together in developing strategies that will protect the public while minimizing negative social, economic, and cultural impacts.

Your Committee has amended this Concurrent Resolution by requesting Hawaii County to be the lead agency, in collaboration with the Department and other appropriate agencies and individuals.

Your Committee has also made some nonsubstantive technical amendments for the purpose of style.

Your Committee on Planning, Land and Water Use Management concurs with the intent and purpose of S.C.R. No. 37, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 37, S.D. 1.

Signed by all members of the Committee.

SCRep. 2777 Planning, Land and Water Use Management on S.R. No. 31

The purpose of this Resolution is to request the Department of Land and Natural Resources to study and report on alternatives to address the threat of lava inundation on the Big Island.

The Department would be joined by Hawaii County, the Department of Defense, the federal government, and other interested parties.

Your Committee finds that the threat of lava inundation, which has revealed itself as an inevitability in high risk areas, demands tough decisions relating to future development and relocation of residences and businesses in order to avoid future catastrophes. To accomplish this, it is necessary to marshal all relevant public and private agencies to work together in developing strategies that will protect the public while minimizing negative social, economic, and cultural impacts.

Your Committee has amended this Resolution by requesting Hawaii County to be the lead agency, in collaboration with the Department and other appropriate agencies and individuals.

Your Committee has also made some nonsubstantive technical amendments for the purpose of style.

Your Committee on Planning, Land and Water Use Management concurs with the intent and purpose of S.R. No. 31, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 31, S.D. 1.

Signed by all members of the Committee.

SCRep. 2778 Planning, Land and Water Use Management on S.C.R. No. 183

The purpose of this Concurrent Resolution is to request the Office of State Planning to study and develop a data base on economic and conceptual issues relating to Hawaii's golf course industry.

Issues to be studied include revenues generated by taxation, distribution of the income for infrastructure necessitated by golf courses, income realized by local businesses and residents, golf course profitability, distribution of profits, displacement of homes and businesses by golf course development, and other economic issues considered germane to the topic. The Office would submit a report to the 1993 Legislature.

Your Committee finds that there is a compelling need to monitor and record golf course development and impact information on an on-going and permanent basis. However, the efficacy of developing such a system, the associated costs, and its ingredients must first be studied and assessed. Therefore, your Committee has amended this Concurrent Resolution by requesting the Office to do a feasibility study on establishing a permanent monitoring or data base system on Hawaii's golf course industry that would include the above subjects.

Your Committee has also made several nonsubstantive technical changes for the purposes of clarity and style.

Your Committee on Planning, Land and Water Use Management concurs with the intent and purpose of S.C.R. No. 183, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 183, S.D. 1.

Signed by all members of the Committee.

SCRep. 2779 Planning, Land and Water Use Management on S.R. No. 148

The purpose of this Resolution is to request the Office of State Planning to study and develop a data base on economic and conceptual issues relating to Hawaii's golf course industry.

Issues to be studied include revenues generated by taxation, distribution of the income for infrastructure necessitated by golf courses, income realized by local businesses and residents, golf course profitability, distribution of profits, displacement of homes and businesses by golf course development, and other economic issues considered germane to the topic. The Office would submit a report to the 1993 Legislature.

Your Committee finds that there is a compelling need to monitor and record golf course development and impact information on an on-going and permanent basis. However, the efficacy of developing such a system, the associated costs, and its ingredients must first be studied and assessed. Therefore, your Committee has amended this Resolution by requesting the Office to do a feasibility study on establishing a permanent monitoring or data base system on Hawaii's golf course industry that would include the above subjects.

Your Committee has also made several nonsubstantive technical changes for the purposes of clarity and style.

Your Committee on Planning, Land and Water Use Management concurs with the intent and purpose of S.R. No. 148, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 148, S.D. 1.

Signed by all members of the Committee.

SCRep. 2780 Planning, Land and Water Use Management on S.C.R. No. 219

The purpose of this Concurrent Resolution is to request the Auditor to report on land banking acquisitions since 1988 enabled by legislative appropriations.

In its testimony to your Committee, the Department of Land and Natural Resources supplied detailed and acceptable information on its land banking acquisitions; therefore, your Committee has deleted the contents of this Concurrent Resolution and inserted a request to the Department to purchase Waipio Valley for land banking purposes.

Waipio Valley is a vital area of historical, cultural, and economic significance as well as a scenic attraction for residents and tourists. Throughout the years, the integrity of its natural assets have been compromised by increased use and abuse to the point that indigenous industries, flora and fauna, water, and other resources are in jeopardy.

Bishop Museum owns the Valley floor, but Hamakua Sugar Company owns the walls, DLNR owns the beaches, and Hawaii County controls the only access into the Valley. This mixed jurisdiction renders a solution to the Valley's problems unlikely in the foreseeable future. Your Committee believes that the wisest course of action is for the State to purchase the entire Valley. Singular ownership devoted to furtherance of the public interest will ensure that the Valley's resources and integrity will be preserved and enhanced to the benefit and enjoyment of residents and visitors alike for generations to come.

Your Committee on Planning, Land and Water Use Management concurs with the intent and purpose of S.C.R. No. 219, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 219, S.D. 1.

Signed by all members of the Committee.

SCRep. 2781 Health and Human Services on S.C.R. No. 251

The purpose of this Concurrent Resolution is to request the Legislative Auditor to conduct an investigation into the delivery of mental health services to children and adolescents pursuant to the memorandum of agreement between the Department of Health and Department of Education.

Your Committee finds that the effective delivery of mental health services to children and adolescents has been an ongoing problem in our public schools. Despite a memorandum of agreement between the Departments of Education and Health, many children and adolescents are not receiving services because they are not identified or services are not available. Your Committee further finds that both state and federal laws direct these agencies to ensure the services are available and provided to children in need.

Testimony in support of this Concurrent Resolution was received from the Mental Health Association of Hawaii and the State Advisory Council on Mental Health and Substance Abuse. Both organizations testified that there is an ongoing lack of compliance on behalf of the state agencies and an assessment of the implementation of the agreement is necessary to identify problems and propose solutions.

Your Committee has amended the title and substance of this Concurrent Resolution to direct the Auditor to:

- (1) Assess the roles and responsibilities of the Departments of Education and Health for the provision of mental health services to children and adolescents as defined by state statute, federal law, and administrative rules;
- (2) Assess the delivery of services by the appropriate state agencies, including the effectiveness of the interagency agreement and the problems which prevent implementation of the agreement;
- (3) Identify service models used in other states which maximize federal funding and which may be used in Hawaii;
- (4) Submit a preliminary report of findings prior to the the 1993 Regular Session, and submit a final report 45 days prior to the convening of the 1994 Regular Session.

Technical amendments have also been made for the purpose of clarity and style which do not affect the substance.

Your Committee on Health and Human Services concurs with the intent and purpose of S.C.R. No. 251, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 251, S.D. 1.

Signed by all members of the Committee.

SCRep. 2782 Health and Human Services on S.C.R. No. 252

The purpose of this concurrent resolution is to urge the Department of Human Services, Health Care Administration Division, to designate a "sub-acute" level of health care.

Currently, levels of health care include trauma care, intensive care, acute care, skilled care and intermediate care. Consequently, reimbursement is not available to nursing homes which could provide sub-acute care.

Your Committee finds that approximately ten per cent of patients presently in acute care hospitals could be moved immediately to sub-acute care settings at a significant savings in medical costs. Your Committee further finds that the quality of life of patients in sub-acute care facilities is improved by receiving appropriate medical care in a home-like setting with activities and individual care available to suit the needs and abilities of the residents. Additionally, sub-acute care facilities would make additional beds available in presently crowded acute care hospitals. Sub-acute care is appropriate for the treatment of ventilator-dependent patients and AIDS patients, among others.

A formal recognition of a "sub-acute" level of health care will allow facilities which provide such care to receive federal reimbursement for their services.

Your Committee received testimony in support of this concurrent resolution from St. Francis Medical Center, The Convalescent Center of Honolulu, and the Hawaii Long Term Care Association. The Convalescent Center provided testimony of its successful sub-acute care pilot program for respiratory patients.

Your Committee on Health and Human Services concurs with the intent and purpose of S.C.R. No. 252 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2783 Health and Human Services on S.R. No. 210

The purpose of this resolution is to urge the Department of Human Services, Health Care Administration Division, to designate a "sub-acute" level of health care.

Currently, levels of health care include trauma care, intensive care, acute care, skilled care and intermediate care. Consequently, reimbursement is not available to nursing homes which could provide sub-acute care.

Your Committee finds that approximately ten per cent of patients presently in acute care hospitals could be moved immediately to sub-acute care settings at a significant savings in medical costs. Your Committee further finds that the quality of life of patients in sub-acute care facilities is improved by receiving appropriate medical care in a home-like setting with activities and individual care available to suit the needs and abilities of the residents. Additionally, sub-acute care facilities would make additional beds available in presently crowded acute care hospitals. Sub-acute care is appropriate for the treatment of ventilator-dependent patients and AIDS patients, among others.

A formal recognition of a "sub-acute" level of health care will allow facilities which provide such care to receive federal reimbursement for their services.

Your Committee received testimony in support of this resolution from St. Francis Medical Center, The Convalescent Center of Honolulu, and the Hawaii Long Term Care Association. The Convalescent Center provided testimony of its successful sub-acute care pilot program for respiratory patients.

Your Committee on Health and Human Services concurs with the intent and purpose of S.R. No. 210 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2784 (Joint) Tourism and Recreation and Planning, Land and Water Use Management on S.C.R. No. 187

The purpose of this Concurrent Resolution is to request the State and County governments to encourage the development of golf courses that better serve the recreational needs of the community.

Your Committees heard testimony in support of this resolution from Nansay Hawaii, Inc., the Hawaii Resort Developers Conference, Kamehameha Investment Corporation (KIC), and the Housing and Land Use Committee of the Chamber of Commerce of Hawaii.

Your Committees find that in addition to providing recreational activity to over three million people per year, golf courses represent a significant contribution to the State's economy by creating jobs, raising tax revenue, and promoting the visitor industry.

Your Committees on Tourism and Recreation and Planning, Land and Water Use Management concur with the intent and purpose of S.C.R. No. 187, and recommend its adoption.

Signed by all members of the Committees.

SCRep. 2785 (Joint) Tourism and Recreation and Planning, Land and Water Use Management on S.R. No. 152

The purpose of this Resolution is to request the State and County governments to encourage the development of golf courses that better serve the recreational needs of the community.

Your Committees heard testimony in support of this resolution from Nansay Hawaii, Inc., the Hawaii Resort Developers Conference, Kamehameha Investment Corporation (KIC), and the Housing and Land Use Committee of the Chamber of Commerce of Hawaii.

Your Committees find that in addition to providing recreational activity to over three million people per year, golf courses represent a significant contribution to the State's economy by creating jobs, raising tax revenue, and promoting the visitor industry.

Your Committees on Tourism and Recreation and Planning, Land and Water Use Management concur with the intent and purpose of S.R. No. 152, and recommend its adoption.

Signed by all members of the Committees.

SCRep. 2786 Tourism and Recreation on S.C.R. No. 213

The purpose of this Concurrent Resolution is to urge the Department of Business, Economic Development and Tourism to explore additional ways and incentives to encourage visitor industry related businesses to preserve and promote the culture of Hawaii.

Your Committee heard testimony in support of this Concurrent Resolution from the Department of Business, Economic Development and Tourism.

Your Committee finds that the preservation of the culture of Hawaii is instrumental to the growth and development of Hawaii's tourist industry. Hence, programs which promote the cultural heritage and identity of the State ultimately benefit both visitors and residents.

Your Committee has made some nonsubstantive technical amendments to the Resolution for the purposes of clarity and style.

Your Committee on Tourism and Recreation concurs with the intent and purpose of S.C.R. No. 213 and recommends its adoption in the form attached hereto as S.C.R. No. 213, S.D. 1.

Signed by all members of the Committee.

SCRep. 2787 Tourism and Recreation on S.R. No. 177

The purpose of this Resolution is to urge the Department of Business, Economic Development and Tourism to explore additional ways and incentives to encourage visitor industry related businesses to preserve and promote the culture of Hawaii.

Your Committee heard testimony in support of this Resolution from the Department of Business, Economic Development and Tourism.

Your Committee finds that the preservation of the culture of Hawaii is instrumental to the growth and development of Hawaii's tourist industry. Hence, programs which promote the cultural heritage and identity of the State ultimately benefit both visitors and residents.

Your Committee has made some nonsubstantive technical amendments to the Resolution for the purposes of clarity and style.

Your Committee on Tourism and Recreation concurs with the intent and purpose of S.R. No. 177 and recommends its adoption in the form attached hereto as S.R. No. 177, S.D. 1.

Signed by all members of the Committee.

SCRep. 2788 Tourism and Recreation on S.C.R. No. 238

The purpose of this Concurrent Resolution is to request that the Department of Land and Natural Resources conduct a study to determine the feasibility of establishing a water safety and lifeguard training center.

Your Committee heard testimony in support of this Concurrent Resolution from the Hawaiian Lifeguard Association.

Your Committee finds that both residents and visitors who use Hawaii's oceans and beaches would directly benefit from increased and improved water safety education and training. Your Committee further finds that such a water safety training program would strengthen Hawaii's role as a leader in the area of ocean awareness and safety.

Your Committee on Tourism and Recreation concurs with the intent and purpose of S.C.R. No. 238 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2789 Tourism and Recreation on S.R. No. 199

The purpose of this Resolution is to request that the Department of Land and Natural Resources conduct a study to determine the feasibility of establishing a water safety and lifeguard training center.

Your Committee heard testimony in support of this Resolution from the Hawaiian Lifeguard Association.

Your Committee finds that both residents and visitors who use Hawaii's oceans and beaches would directly benefit from increased and improved water safety education and training. Your Committee further finds that such a water safety training program would strengthen Hawaii's role as a leader in the area of ocean awareness and safety.

Your Committee on Tourism and Recreation concurs with the intent and purpose of S.R. No. 199 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2790 Tourism and Recreation on S.R. No. 161

The purpose of this resolution is to request the Governor to communicate directly to the Commissioner of the National Football League (NFL) the desire of the people of Hawaii to continue to host the NFL Pro Bowl.

Your Committee heard testimony in support of this resolution from the Department of Business, Economic Development and Tourism.

Your Committee finds that in addition to its recreational benefits, the NFL Pro Bowl, a sellout for fourteen consecutive years, has proved to be a tremendous boost to Hawaii's economy and visitor industry. Your Committee further finds that the high-visibility media coverage of the Pro Bowl promotes Hawaii as an attractive tourist destination.

Your Committee on Tourism and Recreation concurs with the intent and purpose of S.R. No. 161 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2791 Legislative Management on S.C.R. No. 120

The purpose of this Concurrent Resolution is to have the Senate Majority Office conduct a study to determine the public's knowledge and understanding of the principles of self governance and to make recommendations for improvement.

Your Committee finds that, as the proposed study would be done by the Senate Majority Office, the Resolution presents an essentially internal matter that should be decided by the Senate rather than made the subject of a concurrent resolution.

Your Committee has therefore deleted the contents of the Resolution and substituted provisions that effect a welcome change in the manner of designating matter to be deleted in bills proposing amendments to existing sections or subsections of the Hawaii Revised Statutes or the Session Laws of Hawaii.

Current rules in both the Senate and House require that every bill that amends existing statutory or session law sections or subsections set forth the sections or subsections in full, with matter to be deleted enclosed by brackets and new material underscored. Your Committee finds that, while underscoring allows new matter to be readily identified, brackets are often difficult to locate, especially when separated by pages of statutory material. Your Committee believes that adoption of the "overstrike" method used by several other states to indicate matter to be deleted will make the identification of such material much easier than it is at present for legislators, government agencies, and the general public alike.

Your Committee on Legislative Management concurs with the intent and purpose of S.C.R. No. 120, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 120, S.D. 1.

Signed by all members of the Committee.

SCRep. 2792 Housing and Hawaiian Programs on H.C.R. No. 81

The purpose of this concurrent resolution is to request the United States Congress to make the federal tax credit for low-income housing created by the Tax Reform Act of 1986 a permanent program.

Your Committee finds that incentives must be provided to private developers to encourage production of affordable rental housing projects for low-income families. Currently, the federal low income housing tax credit is the only significant federal incentive available for construction and rehabilitation of low income rental housing.

Your Committee received testimony in support of this concurrent resolution from the Housing Finance and Development Corporation and Hawaii Community Reinvestment Corporation.

Your Committee has amended this concurrent resolution to include provisions previously set forth in H.C.R. No. 40, which also requests Congress to permanently extend the low income housing tax credit. Your Committee has further amended this concurrent resolution to request Congress to permanently extend the Tax Exempt Mortgage Revenue Bond Program which allows individuals and families to purchase homes financed by below-market rate mortgages. The title of the concurrent resolution has been amended to reflect the inclusion of the Tax Exempt Mortgage Revenue Bond Program.

Your Committee on Housing and Hawaiian Programs concurs with the intent and purpose of H.C.R. No. 81, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 81, S.D. 1.

Signed by all members of the Committee.

SCRep. 2793 Housing and Hawaiian Programs on S.C.R. No. 228

The purpose of this Concurrent Resolution is to request the governor of the State of Hawaii to institute legal proceedings against the United States of America, as trustee and co-trustee, for its breach of the public land trust. The Concurrent Resolution also requests that a Congressional investigation determine whether Hawaii public lands now occupied or used by the United States military are properly and legally held for necessary and legitimate purposes and that the joint special legislative committee appointed to address issues concerning federal responsibility for public lands in Hawaii be used for oversight purposes concerning the legal proceedings and congressional investigation.

Your Committee finds that there have been numerous repeated and continuing breaches by the United States of its duties as sole trustee and co-trustee of Hawaii public lands, including those Hawaiian home lands set aside solely for the benefit of native Hawaiians, which the United States is legally and morally obligated to redress. "Surplus" public lands have been illegally sold and disposed of by the United States. Although the Legislature has established an ad hoc

committee to examine these issues, this Concurrent Resolution is necessary to prevent new or continuing breaches and to request a congressional investigation to determine whether occupation of Hawaii public land by the United States military agencies is legal or necessary.

Your Committee has made amendments for the purposes of clarity and style which do not affect the substance of this Concurrent Resolution.

Your Committee on Housing and Hawaiian Programs concurs with the intent and purpose of S.C.R. No. 228, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 228, S.D. 1.

Signed by all members of the Committee.

SCRep. 2794 Housing and Hawaiian Programs on S.R. No. 189

The purpose of this Resolution is to request the governor of the State of Hawaii to institute legal proceedings against the United States of America, as trustee and co-trustee, for its breach of the public land trust. The Resolution also requests that a Congressional investigation determine whether Hawaii public lands now occupied or used by the United States military are properly and legally held for necessary and legitimate purposes and that the joint special legislative committee appointed to address issues concerning federal responsibility for public lands in Hawaii be used for oversight purposes concerning the legal proceedings and congressional investigation.

Your Committee finds that there have been numerous repeated and continuing breaches by the United States of its duties as sole trustee and co-trustee of Hawaii public lands, including those Hawaiian home lands set aside solely for the benefit of native Hawaiians, which the United States is legally and morally obligated to redress. "Surplus" public lands have been illegally sold and disposed of by the United States. Although the Legislature has established an ad hoc committee to examine these issues, this Resolution is necessary to prevent new or continuing breaches and to request a congressional investigation to determine whether occupation of Hawaii public land by the United States military agencies is legal or necessary.

Your Committee has made amendments for the purposes of clarity and style which do not affect the substance of this Resolution.

Your Committee on Housing and Hawaiian Programs concurs with the intent and purpose of S.R. No. 189, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 189, S.D. 1.

Signed by all members of the Committee.

SCRep. 2795 Housing and Hawaiian Programs on S.C.R. No. 229

The purpose of this concurrent resolution is to request the Attorney General, the Governor, Hawaii's congressional delegation, department heads, Hawaiian groups and other interested parties to form an ad hoc committee on Hawaiian entitlements to determine the status of efforts to obtain federal entitlements specifically for Hawaiians.

Your Committee finds that as the indigenous people of Hawaii, Hawaiians are essentially native Americans. Possibly because Hawaiians have not been officially classified as native Americans, they have been denied benefits available to other indigenous people who have been classified as native Americans. Your Committee finds that it is imperative that action be taken to enable Hawaiians to receive federal entitlements and to determine whether sovereignty for Hawaiians or classification as native Americans would enable Hawaiians to receive entitlements.

Your Committee has amended this concurrent resolution to change the term "ad hoc committee" to "ad hoc panel" because the panel designation avoids a separation of powers issue. This change is reflected in the amended title. Your Committee has also designated the Office of the Governor as the appropriate office to submit a report of the panel's findings and recommendations to the Legislature prior to the convening of the 1993 Regular Session since federal-state relations are the responsibility of that office and not of the Attorney General. Your Committee has further amended the concurrent resolution to establish that the Hawaiian groups on the panel are to be designated by the Office of Hawaiian Affairs and to define the purpose of the panel.

Your Committee on Housing and Hawaiian Programs concurs with the intent and purpose of S.C.R. No. 229, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 229, S.D. 1.

Signed by all members of the Committee.

SCRep. 2796 Housing and Hawaiian Programs on S.R. No. 190

The purpose of this resolution is to request the Attorney General, the Governor, Hawaii's congressional delegation, department heads, Hawaiian groups and other interested parties to form an ad hoc committee on Hawaiian entitlements to determine the status of efforts to obtain federal entitlements specifically for Hawaiians.

Your Committee finds that as the indigenous people of Hawaii, Hawaiians are essentially native Americans. Possibly because Hawaiians have not been officially classified as native Americans, they have been denied benefits available to other indigenous people who have been classified as native Americans. Your Committee finds that it is imperative that action be taken to enable Hawaiians to receive federal entitlements and to determine whether sovereignty for Hawaiians or classification as native Americans would enable Hawaiians to receive entitlements.

Your Committee has amended this resolution to change the term "ad hoc committee" to "ad hoc panel" because the panel designation avoids a separation of powers issue. This change is reflected in the amended title. Your Committee

has also designated the Office of the Governor as the appropriate office to submit a report of the panel's findings and recommendations to the Legislature prior to the convening of the 1993 Regular Session since federal-state relations are the responsibility of that office and not of the Attorney General. Your Committee has further amended the resolution to establish that the Hawaiian groups on the panel are to be designated by the Office of Hawaiian Affairs and to define the purpose of the panel.

Your Committee on Housing and Hawaiian Programs concurs with the intent and purpose of S.R. No. 190, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 190, S.D. 1.

Signed by all members of the Committee.

SCRep. 2797 Ways and Means on S.C.R. No. 108

The purpose of this concurrent resolution is to request the board of trustees of the employees' retirement system to submit a detailed financial report to the Ways and Means and Finance Committees.

Your Committee finds that the investment returns of the employees' retirement system has declined in recent years. While your Committee recognizes that the investment returns of earlier years were extraordinarily high and could not be expected to continue indefinitely, it is concerned that the newest category of investments has been experiencing the lowest return rate.

Since the State's contribution requirements increase as the investment returns decrease, it is incumbent on the fiscal committees of the legislature to examine the system's investment transactions in order to determine how the State's financial plan will be adversely impacted by declining investment returns.

Your Committee on Ways and Means concurs with the intent and purpose of S.C.R. No. 108, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2798 Ways and Means on S.C.R. No. 223

The purpose of this concurrent resolution is to request the office of the auditor to conduct a financial and management audit of the financial administration division of the department of budget and finance. Specifically, this concurrent resolution requests the auditor to evaluate the qualifications of the division's administrators and staff and to determine the efficacy and performance of the present administrative configuration of the division as compared to the former administrative configuration of the division.

This concurrent resolution also requests the auditor to:

- (1) Include the findings of its consultant, in an unedited condition, in the report to be transmitted to the legislature, if the task of performing the audit is assigned, in whole or in part, to a consultant through a purchase of service contract; and
- (2) Transmit to the legislature, all completed portions of the audit, in phases as they are compiled, beginning on the date of the convening of the Regular Session of 1993.

Your Committee finds that the department of budget and finance recently carried out an administrative reorganization of its financial planning and policy development and treasury operations divisions in an effort to improve the overall effectiveness of its fiscal programs. Specifically, the financial planning and policy development and treasury operations divisions were consolidated into a single division known as the financial administration division.

Because of the tremendous responsibilities placed on the financial administration division, your Committee believes that the administrators and staff of the division should possess the necessary skills, work experience, and qualifications to perform their duties. Your Committee also believes that the new organization of the division should be evaluated to determine whether the purpose of the reorganization was valid, and whether the new organization has resulted in the development of a better and more efficient system, since the intent of the reorganization was to improve efficiency.

Your Committee on Ways and Means concurs with the intent and purpose of S.C.R. No. 223 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2799 Ways and Means on S.R. No. 185

The purpose of this resolution is to establish the Senate Ways and Means Committee as an investigating committee pursuant to chapter 21, Hawaii Revised Statutes, to investigate expenditures of state funds.

Your Committee finds that there is a need from time to time for the Ways and Means Committee to investigate matters falling within the scope of the Committee's responsibility, as outlined in the Rules of the Senate. Establishing your Committee as an investigating committee would provide your Committee with the necessary means to effectively perform its important functions. This resolution would establish your Committee as an investigating committee until March 1, 1993, unless further extended by the Senate.

Your Committee has amended the resolution to provide that oaths administered in hearings convened under this resolution are authorized by section 21-12, Hawaii Revised Statutes, including without limitation for purposes of section 710-1060, Hawaii Revised Statutes.

Your Committee on Ways and Means concurs with the intent and purpose of S.R. No. 185, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 185, S.D. 1.

Signed by all members of the Committee.

SCRep. 2800 (Majority) Health and Human Services on H.C.R. No. 34

The purpose of this Concurrent Resolution is to support the availability of mifepristone, known as RU-486, for research and clinical trials in the United States.

Your Committee finds that mifepristone, RU-486, has been shown to be a safe and effective non-invasive way to prevent the continuation of pregnancy. Testimony submitted by various sources in support of this concurrent resolution indicates that since 1988, RU-486 has been approved for administration in France, with a 95 percent effectiveness rate when used in early pregnancy. RU-486 is also believed to be effective in the treatment of breast cancer and other lymphomas, Cushing's syndrome, glaucoma, and infertility. Your Committee further finds that clinical trials of this drug are occurring in many countries, including Italy, India, Singapore, Great Britain, Sweden, the Netherlands, and Hong Kong.

Your Committee on Health and Human Services concurs with the intent and purpose of H.C.R. No. 34 and recommends its adoption.

Signed by all members of the Committee.
Senator Koki did not concur.

SCRep. 2801 (Joint) Education and Employment and Public Institutions on S.C.R. No. 143

The purpose of this Concurrent Resolution is to request the Department of Education to develop and implement a new classification and compensation plan for ten-month educational officers.

Your Committees find that the current classification and compensation plan for educational officers is inequitable, because it does not recognize the differences in the scope of responsibilities between elementary, intermediate, and high schools. Your Committees further find that educational officers are a critical factor in on-going school reforms, such as school/community-based management, and the Department of Education needs to work to resolve the inequities in their present plan.

Your Committees have amended this Concurrent Resolution by requesting the Department of Education to consult with Hawaii Government Employees Association Unit 06 in the development of a new plan.

Your Committees on Education and Employment and Public Institutions concur with the intent and purpose of S.C.R. No. 143, as amended herein, and recommend its adoption in the form attached hereto as S.C.R. No. 143, S.D. 1.

Signed by all members of the Committees.

SCRep. 2802 (Joint) Education and Employment and Public Institutions on S.R. No. 113

The purpose of this Resolution is to request the Department of Education to develop and implement a new classification and compensation plan for ten-month educational officers.

Your Committees find that the current classification and compensation plan for educational officers is inequitable, because it does not recognize the differences in the scope of responsibilities between elementary, intermediate, and high schools. Your Committees further find that educational officers are a critical factor in on-going school reforms, such as school/community-based management, and the Department of Education needs to work to resolve the inequities in their present plan.

Your Committees have amended this Resolution by requesting the Department of Education to consult with Hawaii Government Employees Association Unit 06 in the development of a new plan.

Your Committees on Education and Employment and Public Institutions concur with the intent and purpose of S.R. No. 113, as amended herein, and recommend its adoption in the form attached hereto as S.R. No. 113, S.D. 1.

Signed by all members of the Committees.

SCRep. 2803 Education on S.C.R. No. 102

The purpose of this Concurrent Resolution is to request the University of Hawaii to develop a strategic plan to make the School of Ocean and Earth Science and Technology (SOEST) a premier school of its type in the nation.

Your Committee finds that the development of a world class scientific and technological institution focussed on the ocean can play an important role in healthy economic development and maintaining a high quality of life within our State. Your Committee further finds that there exist certain obstacles due to the bureaucracy, and lack of autonomy in the use of funds, which may inhibit SOEST from becoming number one among its kind in the nation.

Testimony presented in support of this Concurrent Resolution indicates that SOEST is presently considered to be among the top five U.S. institutions within these fields and is attracting excellent applicants for faculty and academic programs. SOEST received \$36 million in grant and contract funds with a state budget of only \$13 million.

Your Committee on Education concurs with the intent and purpose of S.C.R. No. 102 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2804 Education on S.R. No. 82

The purpose of this Resolution is to request the University of Hawaii to develop a strategic plan to make the School of Ocean and Earth Science and Technology (SOEST) a premier school of its type in the nation.

Your Committee finds that the development of a world class scientific and technological institution focussed on the ocean can play an important role in healthy economic development and maintaining a high quality of life within our State. Your Committee further finds that there exist certain obstacles due to the bureaucracy, and lack of autonomy in the use of funds, which may inhibit SOEST from becoming number one among its kind in the nation.

Testimony presented in support of this Resolution indicates that SOEST is presently considered to be among the top five U.S. institutions within these fields and is attracting excellent applicants for faculty and academic programs. SOEST received \$36 million in grant and contract funds with a state budget of only \$13 million.

Your Committee on Education concurs with the intent and purpose of S.R. No. 82 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2805 Education on S.C.R. No. 116

The purpose of this Concurrent Resolution is to request that the Department of Education and the Community Colleges, in collaboration with the Department of Labor and Industrial Relations, conduct a study of the Middle College High School program for implementation in Hawaii.

Your Committee finds that an estimated 8,000 secondary students in Hawaii's public schools have been identified as at-risk of dropping out of school. A program that might help these students complete their education and become productive members of our community is the Middle College High School, designed to not only encourage at-risk students to complete their high school education, but also continue on for postsecondary degrees.

Your Committee has amended the Concurrent Resolution by requesting that the University of Hawaii and the Employment Training Center of the Community Colleges take the lead in conducting the study with the Departments of Education and Labor and Industrial Relations providing assistance.

Your Committee on Education concurs with the intent and purpose of S.C.R. No. 116, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 116, S.D. 1.

Signed by all members of the Committee.

SCRep. 2806 Education on S.R. No. 91

The purpose of this Resolution is to request that the Department of Education and the Community Colleges, in collaboration with the Department of Labor and Industrial Relations, conduct a study of the Middle College High School program for implementation in Hawaii.

Your Committee finds that an estimated 8,000 secondary students in Hawaii's public schools have been identified as at-risk of dropping out of school. A program that might help these students complete their education and become productive members of our community is the Middle College High School, designed to not only encourage at-risk students to complete their high school education, but also continue on for postsecondary degrees.

Your Committee has amended the Resolution by requesting that the University of Hawaii and the Employment Training Center of the Community Colleges take the lead in conducting the study with the Departments of Education and Labor and Industrial Relations providing assistance.

Your Committee on Education concurs with the intent and purpose of S.R. No. 91, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 91, S.D. 1.

Signed by all members of the Committee.

SCRep. 2807 Education on S.C.R. No. 185

The purpose of this Concurrent Resolution is to request the Board of Regents to evaluate the organization and management of present systemwide and Manoa campus administrations and develop and implement a plan for reorganization.

Your Committee finds that the present organizational structure provides that the President of the University is responsible for the administration of both the university system as well as the Manoa campus. Your Committee further finds that a 1989 study by the Carnegie Foundation for the Advancement of Teaching reviewed this organizational structure and found that it is unique and exacerbates conflicts over governance within the university system. Testimony in

support of this Concurrent Resolution was presented by the Board of Regents, which indicated that the eminent departure of the current President makes it an opportune time to assess the university system's organizational structure.

Your Committee on Education concurs with the intent and purpose of S.C.R. No. 185 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2808 Education on S.R. No. 150

The purpose of this Resolution is to request the Board of Regents to evaluate the organization and management of present systemwide and Manoa campus administrations and develop and implement a plan for reorganization.

Your Committee finds that the present organizational structure provides that the President of the University is responsible for the administration of both the university system as well as the Manoa campus. Your Committee further finds that a 1989 study by the Carnegie Foundation for the Advancement of Teaching reviewed this organizational structure and found that it is unique and exacerbates conflicts over governance within the university system. Testimony in support of this Resolution was presented by the Board of Regents, which indicated that the eminent departure of the current President makes it an opportune time to assess the university system's organizational structure.

Your Committee on Education concurs with the intent and purpose of S.R. No. 150 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2809 Education on S.C.R. No. 217

The purpose of this Concurrent Resolution is to request that the Department of Education study the feasibility of establishing junior varsity sports programs in the public schools on the neighbor islands.

Your Committee finds that participation in sports and athletic competitions at many neighbor island schools is limited because of a lack of junior varsity programs. The development of junior varsity sports programs would not only provide interested students with the opportunity to participate in sports competitions, but would also help them to develop self-discipline, good sportsmanship, and healthy life styles.

Your Committee on Education concurs with the intent and purpose of S.C.R. No. 217 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2810 Education on S.R. No. 181

The purpose of this Resolution is to request that the Department of Education study the feasibility of establishing junior varsity sports programs in the public schools on the neighbor islands.

Your Committee finds that participation in sports and athletic competitions at many neighbor island schools is limited because of a lack of junior varsity programs. The development of junior varsity sports programs would not only provide interested students with the opportunity to participate in sports competitions, but would also help them to develop self-discipline, good sportsmanship, and healthy life styles.

Your Committee on Education concurs with the intent and purpose of S.R. No. 181 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2811 Education on S.C.R. No. 220

The purpose of this Concurrent Resolution is to support congressional reauthorization and funding of the Higher Education Act of 1965, as amended.

Your Committee finds that the federal government should continue its commitment to higher education which can result in lower welfare numbers, lower crime rates, and more stable family life. It is, therefore, in the public interest to continue federal funding to assist disadvantaged and nontraditional students who pursue post-secondary educations.

Your Committee on Education concurs with the intent and purpose of S.C.R. No. 220 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2812 Education on S.R. No. 183

The purpose of this Resolution is to support congressional reauthorization and funding of the Higher Education Act of 1965, as amended.

Your Committee finds that the federal government should continue its commitment to higher education which can result in lower welfare numbers, lower crime rates, and more stable family life. It is, therefore, in the public interest to continue federal funding to assist disadvantaged and nontraditional students who pursue post-secondary educations.

Your Committee on Education concurs with the intent and purpose of S.R. No. 183 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2813 Education on S.C.R. No. 224

The purpose of this Concurrent Resolution is to request that the College of Education at UH-Manoa and UH-Hilo to obtain accreditation from the National Council for Accreditation of Teacher Education.

Your Committee finds that adopting national standards for assuring the quality of our university teacher education programs is important to ensuring a quality education for our future teachers and their students. Your Committee further finds that pursuing these standards will identify areas of strength and weakness in the present teacher education programs offered at UH-Manoa and UH-Hilo.

Your Committee has amended the title and substance of this Concurrent Resolution to indicate that teacher education programs are offered by the College of Education at UH-Manoa and the Department of Education at UH-Hilo, and to stress the importance of meeting those national standards.

Your Committee on Education concurs with the intent and purpose of S.C.R. No. 224, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 224, S.D. 1.

Signed by all members of the Committee.

SCRep. 2814 Education on S.R. No. 186

The purpose of this Resolution is to request that the College of Education at UH-Manoa and UH-Hilo to obtain accreditation from the National Council for Accreditation of Teacher Education.

Your Committee finds that adopting national standards for assuring the quality of our university teacher education programs is important to ensuring a quality education for our future teachers and their students. Your Committee further finds that pursuing these standards will identify areas of strength and weakness in the present teacher education programs offered at UH-Manoa and UH-Hilo.

Your Committee has amended the title and substance of this Resolution to indicate that teacher education programs are offered by the College of Education at UH-Manoa and the Department of Education at UH-Hilo, and to stress the importance of meeting those national standards.

Your Committee on Education concurs with the intent and purpose of S.R. No. 186, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 186, S.D. 1.

Signed by all members of the Committee.

SCRep. 2815 Education on S.C.R. No. 67

The purpose of this Concurrent Resolution is to request the establishment of a Pacific Sustainable Resource System Center at the University of Hawaii.

Your Committee finds that due to its unique location in the Pacific, Hawaii has an abundance of sustainable marine and renewable energy resources. Your Committee further finds that various sustainable resource technologies and systems have been developed in Hawaii based upon research conducted at various laboratories and research institutes. These technologies and systems which have been developed place Hawaii in the unique position of fostering the implementation of sustainable resource systems both within the State and in the Pacific region.

Testimony in support of this Concurrent Resolution was presented by the University of Hawaii's Natural Energy Institute, which also suggested that support be encouraged for the establishment of a program rather than a center. Your Committee has amended both the title and substance of this Concurrent Resolution to reflect this suggestion.

Your Committee on Education concurs with the intent and purpose of S.C.R. No. 67, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 67, S.D. 1.

Signed by all members of the Committee.

SCRep. 2816 Education on S.R. No. 52

The purpose of this Resolution is to request the establishment of a Pacific Sustainable Resource System Center at the University of Hawaii.

Your Committee finds that due to its unique location in the Pacific, Hawaii has an abundance of sustainable marine and renewable energy resources. Your Committee further finds that various sustainable resource technologies and systems have been developed in Hawaii based upon research conducted at various laboratories and research institutes. These technologies and systems which have been developed place Hawaii in the unique position of fostering the implementation of sustainable resource systems both within the State and in the Pacific region.

Testimony in support of this Resolution was presented by the University of Hawaii's Natural Energy Institute, which also suggested that support be encouraged for the establishment of a program rather than a center. Your Committee has amended both the title and substance of this Resolution to reflect this suggestion.

Your Committee on Education concurs with the intent and purpose of S.R. No. 52, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 52, S.D. 1.

Signed by all members of the Committee.

SCRep. 2817 Education on S.C.R. No. 138

The purpose of this Concurrent Resolution is to encourage the Department of Education to develop curriculum which provides quality daily physical education for all public school students.

Your Committee finds that the Department of Education currently requires students in grades K-9 to take physical education, and offers physical education for all students through grade 12. Your Committee further finds that many schools lack the appropriate staff to develop and implement a daily physical education program for all students. Through school/community-based management, your Committee is hopeful that individual schools will have the option to hire appropriate staff to develop daily physical education programs as they deem appropriate.

Your Committee has amended this Concurrent Resolution by:

- (1) Deleting the request for the Department to develop curriculum, in the belief that this will be delegated under school/community-based management;
- (2) Requesting that the Department establish staffing ratios and develop standards for physical education programs; and
- (3) Making technical amendments for the purposes of clarity and style which do not affect its substance.

Your Committee on Education concurs with the intent and purpose of S.C.R. No. 138, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 138, S.D. 1.

Signed by all members of the Committee.

SCRep. 2818 Education on S.R. No. 109

The purpose of this Resolution is to encourage the Department of Education to develop curriculum which provides quality daily physical education for all public school students.

Your Committee finds that the Department of Education currently requires students in grades K-9 to take physical education, and offers physical education for all students through grade 12. Your Committee further finds that many schools lack the appropriate staff to develop and implement a daily physical education program for all students. Through school/community-based management, your Committee is hopeful that individual schools will have the option to hire appropriate staff to develop daily physical education programs as they deem appropriate.

Your Committee has amended this Resolution by:

- (1) Deleting the request for the Department to develop curriculum, in the belief that this will be delegated under school/community-based management;
- (2) Requesting that the Department establish staffing ratios and develop standards for physical education programs; and
- (3) Making technical amendments for the purposes of clarity and style which do not affect its substance.

Your Committee on Education concurs with the intent and purpose of S.R. No. 109, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 109, S.D. 1.

Signed by all members of the Committee.

SCRep. 2819 Education on S.C.R. No. 142

The purpose of this Concurrent Resolution is to request that the University of Hawaii's College of Education, in consultation with the Department of Education, explore alternatives and develop a plan to make professional development courses available and accessible to neighbor island teachers.

Your Committee finds that teachers who keep up with new trends and innovative teaching methods become better educators. As neighbor island teachers lack the same opportunities to take professional development courses as do their Oahu counterparts, it is necessary to develop a plan for making such courses available and accessible to them.

Your Committee on Education concurs with the intent and purpose of S.C.R. No. 142 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2820 Education on S.R. No. 112

The purpose of this Resolution is to request that the University of Hawaii's College of Education, in consultation with the Department of Education, explore alternatives and develop a plan to make professional development courses available and accessible to neighbor island teachers.

Your Committee finds that teachers who keep up with new trends and innovative teaching methods become better educators. As neighbor island teachers lack the same opportunities to take professional development courses as do their Oahu counterparts, it is necessary to develop a plan for making such courses available and accessible to them.

Your Committee on Education concurs with the intent and purpose of S.R. No. 112 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2821 Education on S.C.R. No. 230

The purpose of this Concurrent Resolution is to request the Board of Education to prohibit the distribution and use of the JFK Study Guide in Hawaii's public schools.

Your Committee finds that Warner Brothers, the distributors of the movie "JFK", have organized an extensive campaign to maximize the controversy surrounding the movie by developing and distributing a JFK Study Guide to select high schools in the nation. Your Committee is concerned about the motivations of Warner Brothers in using public high school facilities and teachers to advertise and promote the movie, and thereby increase company revenues. Your Committee further finds that the Board of Education should not only establish procedures to prevent the distribution of the JFK Study Guide, but consider prohibiting the use of public school facilities and teachers to promote any similar private products as well.

Your Committee has amended the title and substance of this Concurrent Resolution to indicate that neither public school facilities nor teachers should be used to advertise or promote such products for private companies.

Your Committee on Education concurs with the intent and purpose of S.C.R. No. 230, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 230, S.D. 1.

Signed by all members of the Committee.

SCRep. 2822 Education on S.R. No. 191

The purpose of this Resolution is to request the Board of Education to prohibit the distribution and use of the JFK Study Guide in Hawaii's public schools.

Your Committee finds that Warner Brothers, the distributors of the movie "JFK", have organized an extensive campaign to maximize the controversy surrounding the movie by developing and distributing a JFK Study Guide to select high schools in the nation. Your Committee is concerned about the motivations of Warner Brothers in using public high school facilities and teachers to advertise and promote the movie, and thereby increase company revenues. Your Committee further finds that the Board of Education should not only establish procedures to prevent the distribution of the JFK Study Guide, but consider prohibiting the use of public school facilities and teachers to promote any similar private products as well.

Your Committee has amended the title and substance of this Resolution to indicate that neither public school facilities nor teachers should be used to advertise or promote such products for private companies.

Your Committee on Education concurs with the intent and purpose of S.R. No. 191, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 191, S.D. 1.

Signed by all members of the Committee.

SCRep. 2823 (Joint) Agriculture and Environmental Protection and Education on S.C.R. No. 110

The purpose of this Concurrent Resolution is to request that the University of Hawaii's Sea Grant Program, with the assistance of the Department of Health, monitor the levels of ultraviolet radiation in Hawaii and to plan and implement a public educational program designed to inform residents and visitors about ozone depletion, health effects from ultraviolet radiation, and precautions to take while exposed to the sun.

Your Committees find that, due to the State's geographic location and temperate climate, Hawaii's residents and visitors are more susceptible to the harmful effects of the sun's ultraviolet radiation because they tend to spend more time in the sun.

Your Committees believe that ultraviolet radiation monitoring and an educational program to warn people of the possible health hazards associated with prolonged exposure to these harmful rays would benefit the health and welfare of all the people who enjoy outdoor activities in the State.

Your Committees on Agriculture and Environmental Protection and Education concur with the intent and purpose of S.C.R. No. 110, and recommend its adoption.

Signed by all members of the Committees except Senators Holt, Iwase, Mizuguchi and Reed.

SCRep. 2824 (Joint) Agriculture and Environmental Protection and Education on S.R. No. 86

The purpose of this Resolution is to request that the University of Hawaii's Sea Grant Program, with the assistance of the Department of Health, monitor the levels of ultraviolet radiation in Hawaii and to plan and implement a public educational program designed to inform residents and visitors about ozone depletion, health effects from ultraviolet radiation, and precautions to take while exposed to the sun.

Your Committees find that, due to the State's geographic location and temperate climate, Hawaii's residents and visitors are more susceptible to the harmful effects of the sun's ultraviolet radiation because they tend to spend more time in the sun.

Your Committees believe that ultraviolet radiation monitoring and an educational program to warn people of the possible health hazards associated with prolonged exposure to these harmful rays would benefit the health and welfare of all the people who enjoy outdoor activities in the State.

Your Committees on Agriculture and Environmental Protection and Education concur with the intent and purpose of S.R. No. 86, and recommend its adoption.

Signed by all members of the Committees except Senators Holt, Iwase, Mizuguchi and Reed.

SCRep. 2825 Agriculture and Environmental Protection on S.C.R. No. 94

The purpose of this Concurrent Resolution is to urge the United States Army Corps of Engineers to complete its project to identify remedial action necessary to remove the subsurface contamination of the Wailoa River State Recreation Area in the County of Hawaii.

Your Committee finds that a recent archaeological survey conducted by the U.S. Army Corps of Engineers for the Alenaio Stream Flood Control Project discovered petroleum products of unknown quality and quantity in the area.

Your Committee would like to urge that the U.S. Army Corps of Engineers aggressively pursue all means available to them in order to expediently remedy this unfortunate situation.

Your Committee on Agriculture and Environmental Protection concurs with the intent and purpose of S.C.R. No. 94 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2826 Agriculture and Environmental Protection on S.R. No. 74

The purpose of this Resolution is to urge the United States Army Corps of Engineers to complete its project to identify remedial action necessary to remove the subsurface contamination of the Wailoa River State Recreation Area in the County of Hawaii.

Your Committee finds that a recent archaeological survey conducted by the U.S. Army Corps of Engineers for the Alenaio Stream Flood Control Project discovered petroleum products of unknown quality and quantity in the area.

Your Committee would like to urge that the U.S. Army Corps of Engineers aggressively pursue all means available to them in order to expediently remedy this unfortunate situation.

Your Committee on Agriculture and Environmental Protection concurs with the intent and purpose of S.R. No. 74 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2827 Agriculture and Environmental Protection on S.C.R. No. 121

The purpose of this Concurrent Resolution is to urge the Department of Land and Natural Resources (DLNR) to assess the impact of gill netting in State waters and propose regulations to control or restrict the use of gill nets.

Your Committee finds that recreational and commercial fishing are vital components of the lifestyle and economic well being of the State. DLNR has amassed data which indicates that in recent years there has been a marked decrease in the population and species distribution of fish in nearshore ecosystems. It has been ascertained that this decrease is largely attributable to the unregulated use of gill nets in these areas.

Therefore, your Committee believes that some form of regulation is appropriate to ensure that these affected ecosystems will be preserved for future generations.

Your Committee has amended the measure by making grammatical, nonsubstantive amendments for the purposes of clarity and style.

Your Committee on Agriculture and Environmental Protection concurs with the intent and purpose of S.C.R. No. 121, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 121, S.D. 1.

Signed by all members of the Committee.

SCRep. 2828 Agriculture and Environmental Protection on S.R. No. 94

The purpose of this Resolution is to urge the Department of Land and Natural Resources (DLNR) to assess the impact of gill netting in State waters and propose regulations to control or restrict the use of gill nets.

Your Committee finds that recreational and commercial fishing are vital components of the lifestyle and economic well being of the State. DLNR has amassed data which indicates that in recent years there has been a marked decrease in the

population and species distribution of fish in nearshore ecosystems. It has been ascertained that this decrease is largely attributable to the unregulated use of gill nets in these areas.

Therefore, your Committee believes that some form of regulation is appropriate to ensure that these affected ecosystems will be preserved for future generations.

Your Committee has amended the measure by making grammatical, nonsubstantive amendments for the purposes of clarity and style.

Your Committee on Agriculture and Environmental Protection concurs with the intent and purpose of S.R. No. 94, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 94, S.D. 1.

Signed by all members of the Committee.

SCRep. 2829 Agriculture and Environmental Protection on S.C.R. No. 122

The purpose of this Concurrent Resolution is to request that the Department of Health conduct a study on the feasibility of utilizing above ground storage tanks for the storage of gasoline in the State.

Your Committee finds that the rising cost of operating and maintaining underground storage tanks has become an increasingly unmanageable economic burden on the retail petroleum community. The high cost of liability insurance and gasoline has forced many small, independent gasoline station owners out of business. Therefore, your Committee believes that a study of alternative means of storing petroleum is appropriate.

Your Committee on Agriculture and Environmental Protection concurs with the intent and purpose of S.C.R. No. 122 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2830 Agriculture and Environmental Protection on S.R. No. 95

The purpose of this Resolution is to request that the Department of Health conduct a study on the feasibility of utilizing above ground storage tanks for the storage of gasoline in the State.

Your Committee finds that the rising cost of operating and maintaining underground storage tanks has become an increasingly unmanageable economic burden on the retail petroleum community. The high cost of liability insurance and gasoline has forced many small, independent gasoline station owners out of business. Therefore, your Committee believes that a study of alternative means of storing petroleum is appropriate.

Your Committee on Agriculture and Environmental Protection concurs with the intent and purpose of S.R. No. 95 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2831 Agriculture and Environmental Protection on S.C.R. No. 132

The purpose of this Concurrent Resolution is to request that the Office of Solid Waste Management study alternative funding mechanisms to finance waste diversion activities.

Your Committee finds that the costs of solid waste disposal services provided by government are largely hidden costs that are not directly evident to the general public. Furthermore, increased regulation of solid waste disposal facilities has contributed substantially to the continuing escalation of the costs of disposal services. Your Committee believes that exploring new alternatives for funding such services makes sound fiscal sense.

Your Committee has made a single, nonsubstantive technical change to correct a grammatical error.

Your Committee on Agriculture and Environmental Protection concurs with the intent and purpose of S.C.R. No. 132, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 132, S.D. 1.

Signed by all members of the Committee.

SCRep. 2832 Agriculture and Environmental Protection on S.R. No. 105

The purpose of this Resolution is to request that the Office of Solid Waste Management study alternative funding mechanisms to finance waste diversion activities.

Your Committee finds that the costs of solid waste disposal services provided by government are largely hidden costs that are not directly evident to the general public. Furthermore, increased regulation of solid waste disposal facilities has contributed substantially to the continuing escalation of the costs of disposal services. Your Committee believes that exploring new alternatives for funding such services makes sound fiscal sense.

Your Committee has made a single, nonsubstantive technical change to correct a grammatical error.

Your Committee on Agriculture and Environmental Protection concurs with the intent and purpose of S.R. No. 105, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 105, S.D. 1.

Signed by all members of the Committee.

SCRep. 2833 Agriculture and Environmental Protection on S.C.R. No. 204

The purpose of this Concurrent Resolution is to express the Senate's support for the United Nations (U.N.) Conference on the Environment and Development.

Your Committee finds that public concern over protecting the global environment continues to grow as evidence concerning the long-term damage being done to this planet by global climatic changes, toxic waste, freshwater and ocean pollution, and the loss of biological diversity continues to accumulate.

Your Committee supports national initiatives that enable states to develop and implement successful economic programs which promote environmentally protective strategies and therefore believes that support of the U.N. Conference on the Environment and Development is appropriate.

Your Committee has amended the Concurrent Resolution to reflect that the support for the U.N. Conference is shared by the entire Legislature.

Your Committee on Agriculture and Environmental Protection concurs with the intent and purpose of S.C.R. No. 204, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 204, S.D. 1.

Signed by all members of the Committee except Senator Solomon.

SCRep. 2834 Agriculture and Environmental Protection on S.R. No. 168

The purpose of this Resolution is to express the Senate's support for the United Nations (U.N.) Conference on the Environment and Development.

Your Committee finds that public concern over protecting the global environment continues to grow as evidence concerning the long-term damage being done to this planet by global climatic changes, toxic waste, freshwater and ocean pollution, and the loss of biological diversity continues to accumulate.

Your Committee supports national initiatives that enable states to develop and implement successful economic programs which promote environmentally protective strategies and therefore believes that support of the U.N. Conference on the Environment and Development is appropriate.

Your Committee has amended the Resolution by making technical changes that have no substantive effect.

Your Committee on Agriculture and Environmental Protection concurs with the intent and purpose of S.R. No. 168, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 168, S.D. 1.

Signed by all members of the Committee except Senator Solomon.

SCRep. 2835 Agriculture and Environmental Protection on S.C.R. No. 239

The purpose of this Concurrent Resolution is to urge the United States of America to commit to strong environmental leadership at the United Nations Conference on Environment and Development.

Your Committee finds that the United States of America could positively influence the proceedings of the United Nations Conference on Environment and Development by demonstrating a genuine commitment to providing strong and effective leadership on environmental issues at the Conference.

Your Committee on Agriculture and Environmental Protection concurs with the intent and purpose of S.C.R. No. 239 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2836 Agriculture and Environmental Protection on S.R. No. 200

The purpose of this Resolution is to urge the United States of America to commit to strong environmental leadership at the United Nations Conference on Environment and Development.

Your Committee finds that the United States of America could positively influence the proceedings of the United Nations Conference on Environment and Development by demonstrating a genuine commitment to providing strong and effective leadership on environmental issues at the Conference.

Your Committee on Agriculture and Environmental Protection concurs with the intent and purpose of S.R. No. 200 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2837 (Joint) Planning, Land and Water Use Management and Culture, Arts and Historic Preservation on S.C.R. No. 85

The purpose of this Concurrent Resolution is to request the Department of Land and Natural Resources, along with Hawaii County, Bishop Museum, and Hamakua Sugar Company, to develop and implement mechanisms to control public and commercial uses of Waipio Valley.

The Department would examine and report on enforcement of current state and county land use provisions as they apply to the floor of Waipio Valley and propose legislation necessary for development and implementation of the required mechanisms.

Your Committees note that this Concurrent Resolution is similar to S.C.R. No. 87 which requests Hawaii County and others to develop and implement mechanisms to control public access into Waipio Valley via Waipio Valley Access Road. Both Concurrent Resolutions establish that Waipio is historically priceless, economically important, a delight to tourists and residents alike, and endangered by commercialization and lack of comprehensive planning.

Your Committees agree that Waipio Valley's natural attributes must be preserved and enhanced and share the apprehension of residents and interest groups that the integrity of the Valley is being compromised. Clearly a comprehensive approach to controlled access and use would be in the best interests of all concerned. Therefore, your Committees have amended this Concurrent Resolution by deleting its contents and inserting a request to the Department to obtain a consensus of all interested parties on the issues of access and use. Your Committees especially request the full participation of the owners and operators: Bishop Museum (the Valley floor); Hamakua Sugar Company (the Valley rims); and Hawaii County (public access), and have intentionally refrained from suggesting a specific forum or methodology in order that the Department may use its best judgment regarding how to accomplish this task.

The Department is requested to submit a report of its activities, findings, and recommendations next Session.

Your Committees on Planning, Land and Water Use Management and Culture, Arts and Historic Preservation concur with the intent and purpose of S.C.R. No. 85, as amended herein, and recommend its adoption in the form attached hereto as S.C.R. No. 85, S.D. 1.

Signed by all members of the Committees.

SCRep. 2838 (Joint) Planning, Land and Water Use Management and Culture, Arts and Historic Preservation on S.R. No. 64

The purpose of this Resolution is to request the Department of Land and Natural Resources, along with Hawaii County, Bishop Museum, and Hamakua Sugar Company, to develop and implement mechanisms to control public and commercial uses of Waipio Valley.

The Department would examine and report on enforcement of current state and county land use provisions as they apply to the floor of Waipio Valley and propose legislation necessary for development and implementation of the required mechanisms.

Your Committees note that this Resolution is similar to S.C.R. No. 87 which requests Hawaii County and others to develop and implement mechanisms to control public access into Waipio Valley via Waipio Valley Access Road. Both Resolutions establish that Waipio is historically priceless, economically important, a delight to tourists and residents alike, and endangered by commercialization and lack of comprehensive planning.

Your Committees agree that Waipio Valley's natural attributes must be preserved and enhanced and share the apprehension of residents and interest groups that the integrity of the Valley is being compromised. Clearly a comprehensive approach to controlled access and use would be in the best interests of all concerned. Therefore, your Committees have amended this Resolution by deleting its contents and inserting a request to the Department to obtain a consensus of all interested parties on the issues of access and use. Your Committees especially request the full participation of the owners and operators: Bishop Museum (the Valley floor); Hamakua Sugar Company (the Valley rims); and Hawaii County (public access), and have intentionally refrained from suggesting a specific forum or methodology in order that the Department may use its best judgment regarding how to accomplish this task.

The Department is requested to submit a report of its activities, findings, and recommendations next Session.

Your Committees on Planning, Land and Water Use Management and Culture, Arts and Historic Preservation concur with the intent and purpose of S.R. No. 64, as amended herein, and recommend its adoption in the form attached hereto as S.R. No. 64, S.D. 1.

Signed by all members of the Committees.

SCRep. 2839 (Joint) Planning, Land and Water Use Management and Education on S.C.R. No. 113

The purpose of this Concurrent Resolution is to request the Department of Land and Natural Resources to lease the remainder of the twenty-acre parcel at Lalamilo, Hawaii to the University of Hawaii at Hilo for development of the Kalakaua Marine Education Center.

The Department has already executed a 65-year lease with the University of Hawaii for five of the twenty acres; however, the University has not obtained the required approvals or permits to commence with the project.

The land in question is ideally suited for the purpose and will help make the University of Hawaii at Hilo a center for undergraduate marine sciences in the Pacific Basin. However, your Committees are reluctant to request lease of an additional fifteen acres when the permits and approvals for the original five have yet to be obtained. Therefore, your

Committees have amended this Concurrent Resolution by providing that the lease will be conditioned upon the University obtaining all permits and approvals.

Your Committees have also amended this Concurrent Resolution by clarifying that the fifteen acres are in Lot 20-A (TMK:6-9-01:01) and that the transaction sought is a lease to the University of Hawaii rather than a transfer to the University of Hawaii at Hilo. In addition, your Committees have made some nonsubstantive technical changes for the purposes of clarity and style.

Your Committees on Planning, Land and Water Use Management and Education concur with the intent and purpose of S.C.R. No. 113, as amended herein, and recommend its adoption in the form attached hereto as S.C.R. No. 113, S.D. 1.

Signed by all members of the Committees.

SCRep. 2840 (Joint) Planning, Land and Water Use Management and Education on S.R. No. 89

The purpose of this Resolution is to request the Department of Land and Natural Resources to lease the remainder of the twenty-acre parcel at Lalamilo, Hawaii to the University of Hawaii at Hilo for development of the Kalakaua Marine Education Center.

The Department has already executed a 65-year lease with the University of Hawaii for five of the twenty acres; however, the University has not obtained the required approvals or permits to commence with the project.

The land in question is ideally suited for the purpose and will help make the University of Hawaii at Hilo a center for undergraduate marine sciences in the Pacific Basin. However, your Committees are reluctant to request lease of an additional fifteen acres when the permits and approvals for the original five have yet to be obtained. Therefore, your Committees have amended this Resolution by providing that the lease will be conditioned upon the University obtaining all permits and approvals.

Your Committees have also amended this Resolution by clarifying that the fifteen acres are in Lot 20-A (TMK:6-9-01:01) and that the transaction sought is a lease to the University of Hawaii rather than a transfer to the University of Hawaii at Hilo. In addition, your Committees have made some nonsubstantive technical changes for the purposes of clarity and style.

Your Committees on Planning, Land and Water Use Management and Education concur with the intent and purpose of S.R. No. 89, as amended herein, and recommend its adoption in the form attached hereto as S.R. No. 89, S.D. 1.

Signed by all members of the Committees.

SCRep. 2841 Planning, Land and Water Use Management on S.C.R. No. 32

The purpose of this Concurrent Resolution is to authorize the Board of Land and Natural Resources or the Department of Transportation to lease approximately 40 acres of submerged lands and 13 acres of fast lands at Kawaihae, Hawaii to a private developer for construction of a marina.

The lease would provide for appropriate historical preservation and require the developer to mitigate siltation in order to preserve the integrity of ancient and culturally significant features of the area. Prior to executing the lease, the Board will have to conclude that the project will be economically feasible, environmentally sound, and in compliance with environmental assessment and impact statement requirements.

Section 171-53(c), Hawaii Revised Statutes, authorizes the Board to lease submerged lands, and Section 171-60 authorizes the Board to lease public land to private developers. Both actions require the prior approval of the Governor and prior authorization of the Legislature by Concurrent Resolution. This Concurrent Resolution satisfies the legislative requirements of both sections.

Your Committee finds that the State needs more small boat harbors and berthing spaces to meet the demands of its recreational boaters. The area authorized for lease by this Concurrent Resolution is eminently suitable for these purposes and has been recognized as such since 1965 when the Army Corps of Engineers so recommended to Congress. Your Committee is confident that any development that arises out of the authority granted by this Concurrent Resolution will be suitable to the needs of the area.

Your Committee has amended this Concurrent Resolution by clarifying that the boat harbor shall be for the enjoyment and use of both the public and private sectors and by providing that the lease shall include only the submerged land identified by the Army Corps of Engineers, approximately 20 acres, along with the 13 acres of fast land set aside by Executive Order.

In addition, your Committee has requested the Board and the Department of Transportation to jointly convene an advisory committee of local and private interests to oversee development, clarified in both the title and body of the Resolution that the role of the State is to lease rather than develop, and made several nonsubstantive technical changes for the purposes of clarity and style.

Your Committee on Planning, Land and Water Use Management concurs with the intent and purpose of S.C.R. No. 32, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 32, S.D. 1.

Signed by all members of the Committee except Senator Ikeda.

SCRep. 2842 Planning, Land and Water Use Management on S.C.R. No. 91

The purpose of this Concurrent Resolution is to request the Department of Land and Natural Resources to expedite approval of a Conservation District Use Application (CDUA) for development of the Haleakala Telepad.

The Department is requested to consult with the University of Hawaii, report progress on the approval, and recommend further actions that will ensure completion of the project.

The Telepad site on Haleakala will facilitate University of Hawaii experiments in astronomy, radioastronomy, and astrophysics that are currently being compromised on Maui by proliferation of radio broadcast towers and television receivers; however, in order to proceed with the project, the University must obtain a CDUA from the Department. This Concurrent Resolution urges satisfactory completion of the CDUA process.

Your Committee finds that Haleakala is an ideal site for the University's experiments and that the CDUA should be vigorously and expeditiously pursued so that the benefits from the Telepad may be realized as soon as feasible. However, your Committee notes that the University intends to apply for a CDUA but has not done so as yet, and has therefore amended this Concurrent Resolution and its title to urge the University to submit and pursue the CDUA expeditiously. In addition, your Committee has noted that a Telepad will not degrade existing coverage.

Further, your Committee has requested the University, with the assistance of the Department, to submit the report and recommendations, and has made several nonsubstantive technical amendments for the purposes of clarity and style.

Your Committee on Planning, Land and Water Use Management concurs with the intent and purpose of S.C.R. No. 91, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 91, S.D. 1.

Signed by all members of the Committee.

SCRep. 2843 Planning, Land and Water Use Management on S.R. No. 72

The purpose of this Resolution is to request the Department of Land and Natural Resources to expedite approval of a Conservation District Use Application (CDUA) for development of the Haleakala Telepad.

The Department is requested to consult with the University of Hawaii, report progress on the approval, and recommend further actions that will ensure completion of the project.

The Telepad site on Haleakala will facilitate University of Hawaii experiments in astronomy, radioastronomy, and astrophysics that are currently being compromised on Maui by proliferation of radio broadcast towers and television receivers; however, in order to proceed with the project, the University must obtain a CDUA from the Department. This Resolution urges satisfactory completion of the CDUA process.

Your Committee finds that Haleakala is an ideal site for the University's experiments and that the CDUA should be vigorously and expeditiously pursued so that the benefits from the Telepad may be realized as soon as feasible. However, your Committee notes that the University intends to apply for a CDUA but has not done so as yet, and has therefore amended this Resolution and its title to urge the University to submit and pursue the CDUA expeditiously. In addition, your Committee has noted that a Telepad will not degrade existing coverage.

Further, your Committee has requested the University, with the assistance of the Department, to submit the report and recommendations, and has made several nonsubstantive technical amendments for the purposes of clarity and style.

Your Committee on Planning, Land and Water Use Management concurs with the intent and purpose of S.R. No. 72, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 72, S.D. 1.

Signed by all members of the Committee.

SCRep. 2844 Agriculture and Environmental Protection on S.C.R. No. 22

The purpose of this Concurrent Resolution is to urge the Commonwealth of Independent States (formerly the USSR) to return to Japan the area known as the Northern Territories.

Your Committee finds that the conclusion of a satisfactory agreement that returns the Northern Territories to Japan would foster peace and stability in the region.

Your Committee on Agriculture and Environmental Protection concurs with the intent and purpose of S.C.R. No. 22 and recommends its adoption.

Signed by all members of the Committee except Senators Ikeda and Reed.

SCRep. 2845 Agriculture and Environmental Protection on S.C.R. No. 42

The purpose of this Concurrent Resolution is to request that a sister state-province relationship be established between Hawaii and the province of Primor'ye located in the Russian Federation.

Your Committee finds that the establishment of mutual relations with the province of Primor'ye, the center of Russian activity in the Pacific, could be a valuable component in Hawaii's efforts to work for continued peace in the world and will ensure a higher level of cultural, educational, professional, technical, and commercial exchange between Hawaii and the Commonwealth of Independent States.

Your Committee has amended the measure and its title to clarify that the intent of the measure is to request the Governor to renew efforts to establish the sister state-province relationship between the two parties in the context of the newly created Commonwealth of Independent States.

Your Committee on Agriculture and Environmental Protection concurs with the intent and purpose of S.C.R. No. 42, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 42, S.D. 1.

Signed by all members of the Committee except Senator Reed.

SCRep. 2846 Agriculture and Environmental Protection on S.C.R. No. 129

The purpose of this Concurrent Resolution is to request that the Department of Health, in consultation with the Legislative Reference Bureau and other interested parties, study Hawaii's environmental review system to determine its sufficiency for meeting the purposes of Chapter 343 and the environmental needs and objectives of the State.

Your Committee finds that it is unclear as to whether an environmental impact statement is a decision-making instrument or a vehicle for disclosure of pertinent information relating to the environmental implications of a proposal. Resolution of the question would help determine whether it is necessary to amend State laws or policies in this area.

Your Committee has amended the Concurrent Resolution by deleting all references to an agency's authority to determine whether an environmental assessment is necessary for its own projects.

Your Committee on Agriculture and Environmental Protection concurs with the intent and purpose of S.C.R. No. 129, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 129, S.D. 1.

Signed by all members of the Committee except Senator Reed.

SCRep. 2847 Agriculture and Environmental Protection on S.R. No. 102

The purpose of this Resolution is to request that the Department of Health, in consultation with the Legislative Reference Bureau and other interested parties, study Hawaii's environmental review system to determine its sufficiency for meeting the purposes of Chapter 343 and the environmental needs and objectives of the State.

Your Committee finds that it is unclear as to whether an environmental impact statement is a decision-making instrument or a vehicle for disclosure of pertinent information relating to the environmental implications of a proposal. Resolution of the question would help determine whether it is necessary to amend State laws or policies in this area.

Your Committee has amended the Resolution by deleting all references to an agency's authority to determine whether an environmental assessment is necessary for its own projects.

Your Committee on Agriculture and Environmental Protection concurs with the intent and purpose of S.R. No. 102, as amended herein, and recommends that it be referred to the Committee on Legislative Management, in the form attached hereto as S.R. No. 102, S.D. 1.

Signed by all members of the Committee except Senator Reed.

SCRep. 2848 Agriculture and Environmental Protection on S.C.R. No. 194

The purpose of this Concurrent Resolution is to authorize the continuance of the Roadside Spray Task Force for another year.

Your Committee finds that the Roadside Spray Task Force established by H.C.R. No. 254, H.D. 1, S.D. 1 (1991) was charged with the responsibility of monitoring and evaluating the necessity and effectiveness of roadside pesticide and herbicide spraying. Due to the complexity of the task, your Committee finds it necessary to provide the Task Force with additional time to develop more comprehensive recommendations.

Your Committee has amended the measure by deleting the third through eighth "WHEREAS" clauses and by making a technical, nonsubstantive amendment for the purpose of clarity.

Your Committee on Agriculture and Environmental Protection concurs with the intent and purpose of S.C.R. No. 194, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 194, S.D. 1.

Signed by all members of the Committee except Senator Reed.

SCRep. 2849 Agriculture and Environmental Protection on S.R. No. 158

The purpose of this Resolution is to authorize the continuance of the Roadside Spray Task Force for another year.

Your Committee finds that the Roadside Spray Task Force established by H.C.R. No. 254, H.D. 1, S.D. 1 (1991) was charged with the responsibility of monitoring and evaluating the necessity and effectiveness of roadside pesticide and herbicide spraying. Due to the complexity of the task, your Committee finds it necessary to provide the Task Force with additional time to develop more comprehensive recommendations.

Your Committee has amended the measure by deleting the third through eighth "WHEREAS" clauses and by making a technical, nonsubstantive amendment for the purpose of clarity.

Your Committee on Agriculture and Environmental Protection concurs with the intent and purpose of S.R. No. 158, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 158, S.D. 1.

Signed by all members of the Committee except Senator Reed.

SCRep. 2850 Agriculture and Environmental Protection on S.C.R. No. 195

The purpose of this Concurrent Resolution is to request that the United States Senate ratify the Articles of the 1976 Convention on Conservation of Nature in the South Pacific ("APIA Convention").

Your Committee finds that the United States was a participant at the 1976 "APIA Convention" which called for increased environmental awareness and protection in the South Pacific region. Although the United States was a major signatory to the Articles adopted at the Convention, the United States Senate never ratified the Articles of the APIA Convention. Therefore, your Committee believes this measure requesting ratification of the Articles adopted at the APIA Convention is appropriate.

Your Committee on Agriculture and Environmental Protection concurs with the intent and purpose of S.C.R. No. 195 and recommends its adoption.

Signed by all members of the Committee except Senator Reed.

SCRep. 2851 Transportation and Intergovernmental Relations on S.C.R. No. 82

The purpose of this Concurrent Resolution is to urge Hawaii's congressional delegation to investigate the feasibility of easing restrictions on the immigration of domestic and agricultural workers from the Philippines to the United States.

Your Committee finds that easing restrictions on the immigration of domestic and agricultural workers from the Philippines would help Hawaii's current shortage of workers in these areas.

Your Committee on Transportation and Intergovernmental Relations concurs with the intent and purpose of S.C.R. No. 82 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2852 Transportation and Intergovernmental Relations on S.C.R. No. 154

The purpose of this Concurrent Resolution is to request that the Department of Transportation, in consultation with the Department of Education and the governing bodies of each county, conduct a comprehensive study and review of existing guidelines for uniform lighting and traffic control with emphasis on those devices being used in school zones.

Your Committee finds that with the increases in population on the neighbor islands, lighting and traffic control signals, particular in the school zones, may no longer be adequate for the health and safety of their residents.

Your Committee has amended the Concurrent Resolution by adding four whereas clauses on the need for roadway lighting. Other amendments were made for style and clarity.

Your Committee on Transportation and Intergovernmental Relations concurs with the intent and purpose of S.C.R. No. 154, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 154, S.D. 1.

Signed by all members of the Committee.

SCRep. 2853 Transportation and Intergovernmental Relations on S.C.R. No. 162

The purpose of this Concurrent Resolution is to express strong support for Aeroflot, the flag air carrier of the Commonwealth of Independent States, to make Honolulu a gateway airport.

Your Committee finds that regular flights between Hawaii and the Commonwealth of Independent States would increase passenger and cargo activity, as well as open potential markets for island products and services.

Your Committee on Transportation and Intergovernmental Relations concurs with the intent and purpose of S.C.R. No. 162 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2854 Employment and Public Institutions on H.C.R. No. 115

The purpose of this Concurrent Resolution is to request the Legislative Reference Bureau to study and report on the feasibility of implementing "phased retirement" in the public service.

The Bureau would consult with the Personnel Directors of the State and counties and the Judiciary, the Employees' Retirement System, the Public Employees Health Fund, and the exclusive representatives of Bargaining Units (1) through (13), and report findings and recommendations to the 1993 Legislature.

Phased retirement would allow persons nearing retirement age to phase out their careers, moving from full-time to part-time work without jeopardizing their retirement benefits. This concept was identified as a priority by the Civil Service Reform Conference.

Your Committee finds that phased retirement may present an appropriate means of accommodating the changing expectations of the public work force and help make public employment more attractive to qualified job-seekers.

Your Committee has amended this Concurrent Resolution and its title by making broad nonsubstantive changes for the purposes of clarity and style. As amended, this Concurrent Resolution is identical to S.C.R. No. 101 previously approved by your Committee.

Your Committee on Employment and Public Institutions concurs with the intent and purpose of H.C.R. No. 115, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 115, S.D. 1.

Signed by all members of the Committee.

SCRep. 2855 Culture, Arts and Historic Preservation on S.C.R. No. 189

The purpose of this Concurrent Resolution is to support the recommendations of the Kaneohe Bay Master Plan Task Force (Task Force) concerning the return of jurisdiction, preservation, and revitalization of the Nu'upia Fishponds at Kaneohe Bay, Oahu. The Kaneohe Bay Master Plan Task Force was established in 1990 to develop policy recommendations to protect and preserve Kaneohe Bay.

Your Committee finds that Hawaiian fish ponds are unique and are an excellent example of the manner in which ancient Hawaiians lived in environmental harmony with nature, managing their resources wisely. The Task Force recommended the restocking of Kaneohe Bay by using existing Hawaiian fishponds, including Nu'upia Fishponds, for nurseries and broodstock. The community would benefit from the increased supply of fish available for personal or commercial purposes. Your Committee finds that the restoration of Nu'upia Fishponds would be environmentally responsible as well as a positive step in the preservation of the traditional and customary practices of the Hawaiian culture.

Your Committee has amended this Concurrent Resolution to eliminate the request for the return of Nu'upia Fishponds to the Office of Hawaiian Affairs. The title is amended to reflect this change. This Concurrent Resolution is further amended to establish an ad hoc panel to develop and implement a plan for the restoration and restocking of Nu'upia Fishponds.

Your Committee on Culture, Arts and Historic Preservation concurs with the intent and purpose of S.C.R. No. 189, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 189, S.D. 1.

Signed by all members of the Committee except Senator Cobb.

SCRep. 2856 Housing and Hawaiian Programs on S.C.R. No. 135

The purpose of this Concurrent Resolution is to request the Auditor to conduct a financial and management audit of the Homeless Families Assistance Program and determine the extent to which its recommendations are followed by the Hawaii Housing Authority.

Your Committee finds that there appear to have been abuses in the providing of facilities and services to Hawaii's homeless families. Contracts have been awarded on a non-bid basis, contravening state procurement procedures, and there has been no accounting of expenditures. Your Committee finds that a financial and management audit of the Homeless Families Assistance Program, including the shelter stipend program, is necessary to insure proper and effective management of revenues.

Your Committee has amended this Concurrent Resolution to:

- (1) Reflect the transfer of the homeless program from the Department of Human Services to the Hawaii Housing Authority; and
- (2) Suggest a monthly internal audit; and
- (3) Provide that the Executive Director of the Hawaii Housing Authority receives a certified copy of the Concurrent Resolution; and
- (4) Require the Auditor to submit its findings and recommendations to the Legislature no less than twenty days prior to the convening of the 1993 Regular Session.

Technical amendments were made for the purposes of clarity and style which do not affect the substance of this Concurrent Resolution.

Your Committee on Housing and Hawaiian Programs concurs with the intent and purpose of S.C.R. No. 135, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 135, S.D. 1.

Signed by all members of the Committee.

SCRep. 2857 Housing and Hawaiian Programs on S.C.R. No. 151

The purpose of this Concurrent Resolution is to request that the federal government withdraw its suit to condemn the Kamaka descendants' land in Waikane Valley, negotiate with the landowners, and fulfill lease conditions. The Concurrent

Resolution also requests that Hawaii's congressional delegation and Governor assist the landowners in resolving the dispute and that the Attorney General intervene or act as amicus curiae in the federal litigation.

Your Committee finds that the Kamaka, Chung and Uu families, descendants of John Kamaka, the original owner of the subject Waikane Valley real property, leased their land in 1942 in good faith to the United States for military purposes. Although the land has many valuable historical sites, the Marine Corps used it for artillery shelling. The Marine Corps has breached the lease which requires that the land be cleared of any unexploded ordnance at the expiration of the lease.

Your Committee finds that because the State has an interest in protecting its lands and ensuring that other lands used by the federal government are restored to their original condition after military use, the Governor, Attorney General, and Hawaii's congressional delegation should assist the landowners to resolve the dispute and end the condemnation proceedings.

Your Committee has amended this Concurrent Resolution to:

1. Clarify that the request to cease federal condemnation of lands refers to lands previously leased to the federal government which are required to be restored to a safe condition if not condemned; and
2. Clarify that the Attorney General is requested to intervene, if possible, in any action or to act as amicus curiae in any appeal of a judgment to condemn to assure that the State is not precluded from recovering other lands used by the federal government.

Other amendments were made for the purposes of clarity and style which do not affect the substance of this Concurrent Resolution.

Your Committee on Housing and Hawaiian Programs concurs with the intent and purpose of S.C.R. No. 151, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 151, S.D. 1.

Signed by all members of the Committee except Senators Fernandes Salling, Nakasato and Reed.

SCRep. 2858 Housing and Hawaiian Programs on S.R. No. 120

The purpose of this Resolution is to request that the federal government withdraw its suit to condemn the Kamaka descendants' land in Waikane Valley, negotiate with the landowners, and fulfill lease conditions. The Resolution also requests that Hawaii's congressional delegation and Governor assist the landowners in resolving the dispute and that the Attorney General intervene or act as amicus curiae in the federal litigation.

Your Committee finds that the Kamaka, Chung and Uu families, descendants of John Kamaka, the original owner of the subject Waikane Valley real property, leased their land in 1942 in good faith to the United States for military purposes. Although the land has many valuable historical sites, the Marine Corps used it for artillery shelling. The Marine Corps has breached the lease which requires that the land be cleared of any unexploded ordnance at the expiration of the lease.

Your Committee finds that because the State has an interest in protecting its lands and ensuring that other lands used by the federal government are restored to their original condition after military use, the Governor, Attorney General, and Hawaii's congressional delegation should assist the landowners to resolve the dispute and end the condemnation proceedings.

Your Committee has amended this Resolution to:

1. Clarify that the request to cease federal condemnation of lands refers to lands previously leased to the federal government which are required to be restored to a safe condition if not condemned; and
2. Clarify that the Attorney General is requested to intervene, if possible, in any action or to act as amicus curiae in any appeal of a judgment to condemn to assure that the State is not precluded from recovering other lands used by the federal government.

Other amendments were made for the purposes of clarity and style which do not affect the substance of this Resolution.

Your Committee on Housing and Hawaiian Programs concurs with the intent and purpose of S.R. No. 120, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 120, S.D. 1.

Signed by all members of the Committee except Senators Fernandes Salling, Nakasato and Reed.

SCRep. 2859 Housing and Hawaiian Programs on S.C.R. No. 225

The purpose of this Concurrent Resolution is to direct the Director of Finance to pay compensation to the Department of Hawaiian Home Lands for the State's uncompensated use of Hawaiian home lands which occurred between August 21, 1959 and the present. This Concurrent Resolution also urges the State to pursue claims against the federal government for acts involving Hawaiian home lands.

Your Committee finds that the Hawaiian Homes Commission Act established* a trust to benefit native Hawaiians, with the State of Hawaii as trustee. Many thousands of acres of Hawaiian home lands, the primary asset of the trust, were withdrawn from the trust. After statehood, state agencies continued to use Hawaiian home lands for nominal sums and other lands were leased to fund Department operations. Your Committee finds that it is the State's responsibility as

trustee to compensate the native Hawaiian beneficiaries of the Hawaiian homes trust for the uncompensated use of trust lands.

Your Committee on Housing and Hawaiian Programs concurs with the intent and purpose of S.C.R. No. 225 and recommends its adoption.

Signed by all members of the Committee except Senators Fernandes Salling, Nakasato and Reed.

SCRep. 2860 Housing and Hawaiian Programs on S.R. No. 187

The purpose of this Resolution is to direct the Director of Finance to pay compensation to the Department of Hawaiian Home Lands for the State's uncompensated use of Hawaiian home lands which occurred between August 21, 1959 and the present. This Resolution also urges the State to pursue claims against the federal government for acts involving Hawaiian home lands.

Your Committee finds that the Hawaiian Homes Commission Act established a trust to benefit native Hawaiians, with the State of Hawaii as trustee. Many thousands of acres of Hawaiian home lands, the primary asset of the trust, were withdrawn from the trust. After statehood, state agencies continued to use Hawaiian home lands for nominal sums and other lands were leased to fund Department operations. Your Committee finds that it is the State's responsibility as trustee to compensate the native Hawaiian beneficiaries of the Hawaiian homes trust for the uncompensated use of trust lands.

Your Committee on Housing and Hawaiian Programs concurs with the intent and purpose of S.R. No. 187 and recommends its adoption.

Signed by all members of the Committee except Senators Fernandes Salling, Nakasato and Reed.

SCRep. 2861 Consumer Protection and Business Regulation on S.C.R. No. 68

The purpose of this Concurrent Resolution is to request that the Auditor conduct a study on the impacts of unaccredited post-secondary educational institutions and proprietary schools operating within the State.

Your Committee finds that S.C.R. No. 147 and S.R. No. 118 which were introduced this year, substantially address the same issue. Therefore, your Committee has amended the measure by deleting the existing provisions, inserting new provisions which request the Auditor to study the necessity for regulation of child care in the State, and amending the title accordingly.

Your Committee on Consumer Protection and Business Regulation concurs with the intent and purpose of S.C.R. No. 68, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 68, S.D. 1.

Signed by all members of the Committee.

SCRep. 2862 Consumer Protection and Business Regulation on S.R. No. 53

The purpose of this Resolution is to request that the Auditor conduct a study on the impacts of unaccredited post-secondary educational institutions and proprietary schools operating within the State.

Your Committee finds that S.C.R. No. 147 and S.R. No. 118 which were introduced this year, substantially address the same issue. Therefore, your Committee has amended the measure by deleting the existing provisions, inserting new provisions which request the Auditor to study the necessity for regulation of child care in the State, and amending the title accordingly.

Your Committee on Consumer Protection and Business Regulation concurs with the intent and purpose of S.R. No. 53, as amended herein, and recommends that it be referred to the Committee on Legislative Management, in the form attached hereto as S.R. No. 53, S.D. 1.

Signed by all members of the Committee.

SCRep. 2863 Consumer Protection and Business Regulation on S.C.R. No. 147

The purpose of this Concurrent Resolution is to request that the Legislative Auditor conduct a study on the impacts of unaccredited post-secondary educational institutions and proprietary schools operating within the State.

Your Committee received testimony in support of the measure from the Department of Commerce and Consumer Affairs, the University of Hawaii, the Hawaii Institute for Hair Design, and a concerned educator.

Your Committee finds that, in recent years, there has been an influx of unaccredited degree granting and nondegree granting institutions and proprietary schools into the State. Existing State law does not regulate the operation of these institutions other than by requiring them to register with the State and disclose their advertising materials.

There have been cases reported nationally of certain unaccredited institutions charging excessive tuition and fees for useless degrees. Unfortunately, many of the victims of these unscrupulous institutions are low income or foreign nationals seeking a better education in order to elevate their current standard of living.

Since the recent crackdowns on so-called "diploma mills" in other states, these institutions have been actively seeking new areas in which to establish themselves. Without an organized plan of regulation which delineates who is to be

regulated and how such regulation is to be administered, the State may become the next safe haven for these unscrupulous unaccredited educational institutions and proprietary schools.

Your Committee has amended the measure by substituting the Legislative Reference Bureau for the Auditor as the agency responsible for the study, and by making technical amendments for the purposes of clarity and style.

Your Committee on Consumer Protection and Business Regulation concurs with the intent and purpose of S.C.R. No. 147, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 147, S.D. 1.

Signed by all members of the Committee except Senators McCartney and Koki.

SCRep. 2864 Consumer Protection and Business Regulation on S.R. No. 118

The purpose of this Resolution is to request that the Legislative Auditor conduct a study on the impacts of unaccredited post-secondary educational institutions and proprietary schools operating within the State.

Your Committee received testimony in support of the measure from the Department of Commerce and Consumer Affairs, the University of Hawaii, the Hawaii Institute for Hair Design, and a concerned educator.

Your Committee finds that, in recent years, there has been an influx of unaccredited degree granting and nondegree granting institutions and proprietary schools into the State. Existing State law does not regulate the operation of these institutions other than by requiring them to register with the State and disclose their advertising materials.

There have been cases reported nationally of certain unaccredited institutions charging excessive tuition and fees for useless degrees. Unfortunately, many of the victims of these unscrupulous institutions are low income or foreign nationals seeking a better education in order to elevate their current standard of living.

Since the recent crackdowns on so-called "diploma mills" in other states, these institutions have been actively seeking new areas in which to establish themselves. Without an organized plan of regulation which delineates who is to be regulated and how such regulation is to be administered, the State may become the next safe haven for these unscrupulous unaccredited educational institutions and proprietary schools.

Your Committee has amended the measure by substituting the Legislative Reference Bureau for the Auditor as the agency responsible for the study, and by making technical amendments for the purposes of clarity and style.

Your Committee on Consumer Protection and Business Regulation concurs with the intent and purpose of S.R. No. 118, as amended herein, and recommends that it be referred to the Committee on Legislative Management, in the form attached hereto as S.R. No. 118, S.D. 1.

Signed by all members of the Committee except Senators Iwase, McCartney and Koki.

SCRep. 2865 (Majority) Consumer Protection and Business Regulation on S.C.R. No. 71

The purpose of this Concurrent Resolution is to request that the Auditor conduct a study on the feasibility of a state fund, "pay at the pump" type of motor vehicle insurance as a means of reforming the current no-fault motor vehicle insurance system.

Your Committee received testimony in support of the measure from State Farm Insurance, Public Affairs Consultants-Hawaii, and the Hawaii Academy of Plaintiffs' Attorneys.

Testimony in opposition to the measure was submitted by the Hawaii Transportation Association, the Chamber of Commerce of Hawaii, the Hawaii Independent Insurance Agents Association, and the Hawaii Insurers Council.

The opposing testimony indicated, among other things, that such a "pay at the pump" system is unfair, forcing those who rely upon transportation as a part of doing business to pay an inordinate amount of motor vehicle insurance regardless of driving record.

Your Committee feels that the study on this subject conducted by Coopers and Lybrand in 1988 left many unanswered questions, including those related to start-up capital requirements, the administrative costs of operating such a system, and the effect on the private sector when motor vehicle insurance-related jobs are rendered unnecessary due to the new system, in addition to those questions already articulated in the Resolution.

Accordingly, your Committee has amended the measure by directing that the study address these additional issues.

Your Committee on Consumer Protection and Business Regulation concurs with the intent and purpose of S.C.R. No. 71, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 71, S.D. 1.

Signed by all members of the Committee.
Senator Crozier did not concur.

SCRep. 2866 Consumer Protection and Business Regulation on S.C.R. No. 78

The purpose of this Concurrent Resolution is to request that the Auditor conduct an assessment of the social and financial impact of mandatory medical insurance coverage for temporomandibular disorder (TMD) services. Section 23-51, Hawaii Revised Statutes, requires such an assessment before coverage can be mandated by law.

Your Committee received testimony in support of the measure from the Hawaii Dental Association, the Hawaii Federation of Physicians and Dentists, and the Hawaii Society of Oral and Maxillofacial Surgeons.

TMD includes all problems associated with the functioning of the jaw that may cause headaches, muscle tenderness, and facial, head, or neck pain.

Your Committee finds that under the State's existing health insurance law, TMD service is not considered a health care service which is eligible for mandated coverage under a health insurance policy, but perhaps should be. This measure will provide the means by which an informed decision on the issue can be made.

Your Committee on Consumer Protection and Business Regulation concurs with the intent and purpose of S.C.R. No. 78 and recommends its adoption.

Signed by all members of the Committee except Senators McCartney and Koki.

SCRep. 2867 Education on S.C.R. No. 19

The purpose of this Concurrent Resolution, as received, is to request the Department of Education to develop an environmental education program within the public schools.

Your Committee finds that while an environmental education program within the public schools is a worthwhile endeavor, ongoing school reforms require that the Legislature not micromanage school curriculum through additional mandates.

Upon further consideration, your Committee has amended this Concurrent Resolution to request the Department of Education to study the feasibility of establishing statewide varsity boxing programs within the public secondary schools. Your Committee believes that the expansion of sports programs, especially within the secondary schools, is an incentive for students to become involved in organized after-school activities and will deter their involvement in gangs or criminal activities.

Your Committee on Education concurs with the intent and purpose of S.C.R. No. 19, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 19, S.D. 1.

Signed by all members of the Committee.

SCRep. 2868 Education on S.R. No. 17

The purpose of this Resolution, as received, is to request the Department of Education to develop an environmental education program within the public schools.

Your Committee finds that while an environmental education program within the public schools is a worthwhile endeavor, ongoing school reforms require that the Legislature not micromanage school curriculum through additional mandates.

Upon further consideration, your Committee has amended this Resolution to request the Department of Education to study the feasibility of establishing statewide varsity boxing programs within the public secondary schools. Your Committee believes that the expansion of sports programs, especially within the secondary schools, is an incentive for students to become involved in organized after-school activities and will deter their involvement in gangs or criminal activities.

Your Committee on Education concurs with the intent and purpose of S.R. No. 17, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 17, S.D. 1.

Signed by all members of the Committee.

SCRep. 2869 Education on S.C.R. No. 202

The purpose of this Concurrent Resolution, as received, is to request the Curriculum Committee of the Board of Education to evaluate the success of the phonics-based program used at Kaelepu Elementary School.

While the evaluation of the success of the phonics-based program is important, your Committee finds that ongoing school reforms require that the Legislature refrain from imposing additional mandates to micromanage school curriculum.

Upon further consideration, your Committee has amended this Concurrent Resolution to express its commitment to restructuring the public school system. Your Committee believes that a strong statement of support needs to be made for reforms relating to school governance and for providing autonomy to the individual schools. Your Committee, therefore, is requesting that the Department of Education conduct a "Leadership Summit on Education", to review the key issues confronting restructuring of education, gauge its progress, and develop a strategy for restructuring. Your Committee is also requesting that the Performance Standards Commission report serve as a broadly shared vision of students needs, and incorporate the principles of school/community-based management. Furthermore, your Committee is requesting that pending the report from the Performance Standards Commission, any legislative or administrative initiatives relating to curriculum, assessment, or pedagogy be placed in abeyance, unless they are clearly linked to desired student outcomes. Finally, your Committee is requesting that the Legislature endorse and support the implementation of Project Ke Au Hou, along with a concerted effort to align Constitutional, statutory, and regulatory provisions to ensure consistency with decentralization and increased flexibility and autonomy at the school level.

Your Committee on Education concurs with the intent and purpose of S.C.R. No. 202, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 202, S.D. 1.

Signed by all members of the Committee except Senators Fernandes Salling and Solomon.

SCRep. 2870 Education on S.R. No. 166

The purpose of this Resolution, as received, is to request the Curriculum Committee of the Board of Education to evaluate the success of the phonics-based program used at Kaelepulu Elementary School.

While the evaluation of the success of the phonics-based program is important, your Committee finds that ongoing school reforms require that the Legislature refrain from imposing additional mandates to micromanage school curriculum.

Upon further consideration, your Committee has amended this Resolution to express its commitment to restructuring the public school system. Your Committee believes that a strong statement of support needs to be made for reforms relating to school governance and for providing autonomy to the individual schools. Your Committee, therefore, is requesting that the Department of Education conduct a "Leadership Summit on Education", to review the key issues confronting restructuring of education, gauge its progress, and develop a strategy for restructuring. Your Committee is also requesting that the Performance Standards Commission report serve as a broadly shared vision of students needs, and incorporate the principles of school/community-based management. Furthermore, your Committee is requesting that pending the report from the Performance Standards Commission, any legislative or administrative initiatives relating to curriculum, assessment, or pedagogy be placed in abeyance, unless they are clearly linked to desired student outcomes. Finally, your Committee is requesting that the Legislature endorse and support the implementation of Project Ke Au Hou, along with a concerted effort to align Constitutional, statutory, and regulatory provisions to ensure consistency with decentralization and increased flexibility and autonomy at the school level.

Your Committee on Education concurs with the intent and purpose of S.R. No. 166, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 166, S.D. 1.

Signed by all members of the Committee except Senators Fernandes Salling and Solomon.

SCRep. 2871 Science, Technology and Economic Development on S.C.R. No. 140

The purpose of this Concurrent Resolution is to appoint the Senate Standing Committee on Science, Technology, and Economic Development to serve as an investigating committee to examine the Department of Budget and Finance's contractual arrangement for the purchase of the SELEX telephone equipment and system.

Although the Department of Budget and Finance has provided information on its procurement of the SELEX system, your Committee still believes that a thorough investigation would help ensure that the most economical and cost effective telephone system will be purchased when the current contract expires in 1994.

Your Committee has amended the Concurrent Resolution by deleting a paragraph to reflect that the Department of Budget and Finance has complied with requests for information made by the Legislature. Other nonsubstantive, clarifying amendments were also made.

Your Committee on Science, Technology and Economic Development concurs with the intent and purpose of S.C.R. No. 140, as amended herein, and recommends that it be referred to the Committee on Legislative Management in the form attached hereto as S.C.R. No. 140, S.D. 1.

Signed by all members of the Committee except Senators Aki, Hagino, Holt and McCartney.

SCRep. 2872 Science, Technology and Economic Development on S.R. No. 110

The purpose of this Resolution is to appoint the Senate Standing Committee on Science, Technology, and Economic Development to serve as an investigating committee to examine the Department of Budget and Finance's contractual arrangement for the purchase of the SELEX telephone equipment and system.

Although the Department of Budget and Finance has provided information on its procurement of the SELEX system, your Committee still believes that a thorough investigation would help ensure that the most economical and cost effective telephone system will be purchased when the current contract expires in 1994.

Your Committee has amended the Resolution by deleting a paragraph to reflect that the Department of Budget and Finance has complied with requests for information made by the Legislature. Other nonsubstantive, clarifying amendments were also made.

Your Committee on Science, Technology and Economic Development concurs with the intent and purpose of S.R. No. 110, as amended herein, and recommends that it be referred to the Committee on Legislative Management in the form attached hereto as S.R. No. 110, S.D. 1.

Signed by all members of the Committee except Senators Aki, Hagino, Holt and McCartney.

SCRep. 2873 Agriculture and Environmental Protection on S.C.R. No. 133

The purpose of this Concurrent Resolution is to express support for the people of the Territory of Guam in their quest for Commonwealth status with the United States.

Your Committee has amended the measure by deleting the title and substance of the measure and inserting provisions which requests the United States and France accept the Treaty of Rarotonga which calls for a permanent moratorium on the practice of nuclear testing in the South Pacific area.

Your Committee finds that the United States has acquiesced in similar nuclear-free zones in other areas of the world and hopes that the United States and France will extend this practice to the South Pacific as well.

Your Committee on Agriculture and Environmental Protection concurs with the intent and purpose of S.C.R. No. 133, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 133, S.D. 1.

Signed by all members of the Committee except Senator Reed.

SCRep. 2874 (Joint) Employment and Public Institutions and Housing and Hawaiian Programs on S.C.R. No. 254

The purpose of this Concurrent Resolution is to call for a work stoppage on January 19, 1993 to commemorate the overthrow of Queen Liliuokalani one hundred years ago.

Your Committees find that on January 17, 1893, the American Minister John Stevens ordered the landing of armed U. S. Marines in Honolulu, proclaimed the abolishment of the Hawaiian monarchy headed by Queen Liliuokalani, established a provisional government, all without the consent of the indigenous people of Hawaii, na kanaka maoli. Although Queen Liliuokalani was forced to abdicate and renounce her claims to the Hawaiian throne, she remains a significant figure remembered by the people of Hawaii for her vision, courage, leadership and integrity.

Your Committees further find that the subsequent annexation of the Hawaiian Islands by the United States contributed to the suppression of the culture, including language and religion, and loss of the land base, of the indigenous people of Hawaii. Activities to honor Queen Liliuokalani and to commemorate the one hundredth anniversary of the overthrow of the monarchy will aid all residents of Hawaii in the understanding of those events and the consequences suffered by na kanaka maoli as a result of those actions.

Your Committees have amended this Concurrent Resolution to change its focus from a work stoppage on the one hundredth anniversary to request the governor and all county executives to initiate and support governmental activities commemorating the events and consequences of January 18, 1893. A work stoppage is no longer proposed. The title is amended to reflect the change. Specific suggestions for observations and participation are given. Your Committees have further amended this Concurrent Resolution by adding more detailed historical background for the purpose of clarity. Other amendments were made for the purposes of clarity and style which do not affect the substance of the Concurrent Resolution.

Your Committees on Employment and Public Institutions and Housing and Hawaiian Programs concur with the intent and purpose of S.C.R. No. 254, as amended herein, and recommend its adoption in the form attached hereto as S.C.R. No. 254, S.D. 1.

Signed by all members of the Committees except Senators Koki, McCartney and McMurdo.

SCRep. 2875 Consumer Protection and Business Regulation on S.C.R. No. 231

The purpose of this Concurrent Resolution is to request the Attorney General to study the advisability of filing an anti-trust lawsuit or initiating other legal remedies against oil companies operating in Hawaii.

Your Committee received testimony in support of the measure from the Attorney General and the Hawaii Automobile and Retail Gasoline Dealers Association.

Your Committee finds that a preliminary report on the price of gasoline in Hawaii issued by the Attorney General in 1990 called for continued surveillance and that additional data gathering mechanisms be enacted into law. This measure would authorize the Attorney General to continue studying the local petroleum industry's marketing practices.

Your Committee has amended the measure by adding two "WHEREAS" clauses that:

- (1) State the Legislature enacted a two year moratorium on the direct retailing of gasoline by refiners and that the study address how this moratorium has affected gasoline prices; and
- (2) Indicate that in spite of this moratorium, there is reason to believe that certain refiners have continued to build, open, and operate retail gasoline outlets.

Your Committee has also made some technical changes that have no substantive effect.

Your Committee on Consumer Protection and Business Regulation concurs with the intent and purpose of S.C.R. No. 231, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 231, S.D. 1.

Signed by all members of the Committee except Senators Iwase, Cobb, McCartney and Koki.

SCRep. 2876 Consumer Protection and Business Regulation on S.R. No. 192

The purpose of this Resolution is to request the Attorney General to study the advisability of filing an anti-trust lawsuit or initiating other legal remedies against oil companies operating in Hawaii.

Your Committee received testimony in support of the measure from the Attorney General and the Hawaii Automobile and Retail Gasoline Dealers Association.

Your Committee finds that a preliminary report on the price of gasoline in Hawaii issued by the Attorney General in 1990 called for continued surveillance and that additional data gathering mechanisms be enacted into law. This measure would authorize the Attorney General to continue studying the local petroleum industry's marketing practices.

Your Committee has amended the measure by adding two "WHEREAS" clauses that:

- (1) State the Legislature enacted a two year moratorium on the direct retailing of gasoline by refiners and that the study address how this moratorium has affected gasoline prices; and
- (2) Indicate that in spite of this moratorium, there is reason to believe that certain refiners have continued to build, open, and operate retail gasoline outlets.

Your Committee has also made some technical changes that have no substantive effect.

Your Committee on Consumer Protection and Business Regulation concurs with the intent and purpose of S.R. No. 192, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 192, S.D. 1.

Signed by all members of the Committee except Senators Iwase, Cobb, McCartney and Koki.

SCRep. 2877 Transportation and Intergovernmental Relations on S.C.R. No. 95

The purpose of this Concurrent Resolution is to direct the Auditor to conduct an in-depth study on the use of the current point system by the insurance industry, the inequity of its use to determine insurance premiums, and the possible repeal and replacement of it with a more equitable and less complicated system.

Your Committee finds that the current point system appears to be ineffective, cumbersome, and confusing for motorists and administrators. It would therefore be prudent to reevaluate the system to determine its shortcomings and develop a more equitable system to replace it.

Your Committee has made technical amendments and has directed the Auditor to study the point system in other states for comparison and models.

Your Committee on Transportation and Intergovernmental Relations concurs with the intent and purpose of S.C.R. No. 95, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 95, S.D. 1.

Signed by all members of the Committee except Senators Cobb and Aki.

SCRep. 2878 Judiciary on S.C.R. No. 62

The purpose of this concurrent resolution is to request that the Legislative Reference Bureau ("LRB"), with the assistance of interested groups, study Hawaii's civil justice system. The study should:

- (1) Identify the types of information and data necessary to evaluate the equity and efficiency of the current system;
- (2) Assess the availability and the time and costs required to generate, collect and assemble the information and data; and
- (3) Develop an information management and analysis system to help the legislature quantify and logically assess the need for and impact of changes in tort and product liability law.

This concurrent resolution also requests the LRB to draft proposed legislation to insure that the information is collected and reported annually to the Judiciary.

The Judiciary and the Hawaii Insurers Council submitted testimony in support of the concurrent resolution. In addition, the Hawaii Academy of Plaintiffs' Attorney supported its purpose and intent.

Your Committee made technical amendments to the title and substance of the concurrent resolution to better effectuate its intent.

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. No. 62, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 62, S.D. 1.

Signed by all members of the Committee except Senators Crozier and Tungpalan.

SCRep. 2879 Judiciary on S.R. No. 48

The purpose of this resolution is to request that the Legislative Reference Bureau ("LRB"), with the assistance of interested groups, study Hawaii's civil justice system. The study should:

- (1) Identify the types of information and data necessary to evaluate the equity and efficiency of the current system;
- (2) Assess the availability and the time and costs required to generate, collect and assemble the information and data; and

(3) Develop an information management and analysis system to help the legislature quantify and logically assess the need for and impact of changes in tort and product liability law.

This resolution also requests the LRB to draft proposed legislation to insure that the information is collected and reported annually to the Judiciary.

The Judiciary and the Hawaii Insurers Council submitted testimony in support of the resolution. In addition, the Hawaii Academy of Plaintiffs' Attorney supported its purpose and intent.

Your Committee made technical amendments to the title and substance of the resolution to better effectuate its intent.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 48, as amended herein, and recommends that it be referred to the Committee on Legislative Management, in the form attached hereto as S.R. No. 48, S.D. 1.

Signed by all members of the Committee.

SCRep. 2880 Ways and Means on S.C.R. No. 222

The purpose of this concurrent resolution is to request the legislative auditor to contract with a mainland certified public accountancy firm to review all state nonbid contracts valued at \$25,000 or more and executed within the past four years.

A 1990 study of the State's procurement system by Lallatin & Associates revealed that Hawaii spends substantially more dollars on "sole source" nonbid contracts than other states with greater purchasing volumes. Your Committee is concerned not only that state funds are not being used efficiently, but also of the appearance of impropriety in the awarding of a large number of nonbid contracts. Your Committee believes that an audit will provide the necessary data upon which meaningful changes to the current procurement law and procedures can be made to ensure integrity and efficiency in the State's procurement system.

Your Committee has amended this concurrent resolution to correct two typographical errors.

Your Committee on Ways and Means concurs with the intent and purpose of S.C.R. No. 222, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 222, S.D. 1.

Signed by all members of the Committee except Senator Aki.

SCRep. 2881 Transportation and Intergovernmental Relations on S.C.R. No. 89

The purpose of this Concurrent Resolution is to urge the President of the United States, the United States Congress, Hawaii's Congressional Delegation, and the Governor to join in an effort to curtail the use of Pohakuloa Training Area on the island of Hawaii for such purposes as live fire training and the training of foreign troops, and to return these lands to the State.

Your Committee finds that the Pohakuloa Training Area is public land, including Hawaiian home lands, which was leased to the federal government in 1964 for one dollar for sixty-five years. This area is used for maneuver training and live fire training by United States combat forces and by foreign military forces. Because your Committee is cognizant of the important contributions that the military makes to the economy, job market, and community relations in the State of Hawaii, it has amended the Resolution to shift its focus from curtailment of the use of Pohakuloa for military purposes to the issue of compensation for the continued military use of Hawaiian home lands. The latter issue must be addressed by the United States Department of Defense and appropriate State departments as the native Hawaiian beneficiaries of the Hawaiian home lands trust are legally and morally due adequate compensation for the use of their lands.

While your Committee finds that the U.S. Army has increased its awareness of its responsibility to preserve the environmental, natural, and archaeological resources of Pohakuloa, a plan should be developed by the military which specifically addresses these issues in connection with future use of Pohakuloa by military forces for training purposes. The Resolution has been amended to call for development of such a plan.

Your Committee on Transportation and Intergovernmental Relations concurs with the intent and purpose of S.C.R. No. 89, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 89, S.D. 1.

Signed by all members of the Committee except Senators Aki and George.

SCRep. 2882 Ways and Means on S.C.R. No. 155

The purpose of this Concurrent Resolution is to provide written certification to the federal government of the Legislature's opposition to the enactment or enforcement of any law requiring the revocation, or delay in issuance or reinstatement, of the driver's licenses of individuals convicted of violations of the federal Controlled Substances Act or any drug offense. The Concurrent Resolution is intended to fulfill the requirements of 23 U.S.C. 104(a)(3)(B) applicable to the Legislature.

Your Committee believes that the Hawaii state legislature should have the right to determine whether to enact legislation to revoke driver licenses of drug offenders and not be mandated by a rider to federal funds earmarked for the State.

Your Committee has amended the Concurrent Resolution to clarify that the legislature opposes both the federal mandate and the enactment of the type of law described therein.

Your Committee on Ways and Means concurs with the intent and purpose of S.C.R. No. 155, S.D. 1, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 155, S.D. 2.

Signed by all members of the Committee except Senators Aki and Solomon.

LCRep. 2883 Executive Appointments on Gov. Msg. No. 314

Recommending that the Senate consent to the nomination of FRANCES Q.F. WONG for 18th Judge of the Circuit Court of the First Circuit, for a term of ten years, in accordance with the provisions of Article VI, Section 3, of the Hawaii State Constitution.

Signed by all members of the Committee.

LCRep. 2884 Executive Appointments on Gov. Msg. Nos. 276, 279, 280, 282, 23, 284, 285, 286, 293, 294, 295, 296, and 300

Recommending that the Senate advise and consent to the nominations of the following:

JIM ARTHUR LEACH to the Hawaii Advisory Commission on Drug Abuse and Controlled Substances, term to expire June 30, 1995 (Gov. Msg. No. 276);

WILLIAM J. BONK, Ph.D., AGNES C. CONRAD, JEFFREY LLOYD CRANE, Ph.D., and MARIE DOLORES STRAZAR, Ph.D., to the Hawaii Historic Places Review Board, terms to expire June 30, 1996 (Gov. Msg. No. 279);

APRIL S. APANA, S. HAUNANI APOLIONA and SHOICHI HAMAI to the Board of Health, terms to expire June 30, 1996 (Gov. Msg. No. 280);

SARAH HAUANIO, to the Island Burial Council, Island of Hawaii, term to expire June 30, 1993 (Gov. Msg. No. 282);

HEATHER M. COLE, KIA FRONDA, WINIFRED PELE HANOVA and HERMAN PUOU KUNEWA Jr. to the Island Burial Council, Island of Hawaii, terms to expire June 30, 1996 (Gov. Msg. No. 282);

CARYLIN LOUISE AKA, ELIZABETH K. BUKOSKI and CHERYL U. LOVELL-OBATAKE to the Island Burial Council, Islands of Kauai and Niihau, terms to expire June 30, 1996 (Gov. Msg. No. 283);

BRENDA LYNN BRITTON to the Island Burial Council, Islands of Maui and Lanai, term to expire June 30, 1995 (Gov. Msg. No. 284);

GARNER H. IVEY, Jr., and E.G.K. AIMOKU PALI to the Island Burial Council, Islands of Maui and Lanai, terms to expire June 30, 1996 (Gov. Msg. No. 284);

MATTHEW K. ADOLPHO, Jr., HARRY AKI, CECILIA LANI KAPUNI and NOELANI MEYER KELIIKIPI to the Island Burial Council, Island of Molokai, terms to expire June 30, 1996 (Gov. Msg. No. 285);

MILES H. HAZAMA and VERA LANI ROSE to the Island Burial Council, Island of Oahu, terms to expire June 30, 1996 (Gov. Msg. No. 286);

RONALD T. IWATA to the County Public Health Facility Management Advisory Committee, City and County of Honolulu, term to expire June 30, 1993 (Gov. Msg. No. 293);

JEAN L.J. LUM, Ph.D., and NEAL N. TAMURA, D.D.S., to the County Public Health Facility Management Advisory Committee, City and County of Honolulu, terms to expire June 30, 1996 (Gov. Msg. No. 293);

CAROLYN S.K. FUERTES and CLYDE T. IMADA to the County Public Health Facility Management Advisory Committee, County of Hawaii, terms to expire June 30, 1996 (Gov. Msg. No. 294);

MYRNA ANNE P. KAI and RICHARD WILSON CARMICHAEL to the County Public Health Facility Management Advisory Committee, County of Kauai, terms to expire June 30, 1996 (Gov. Msg. No. 295);

PATRICIA KEAU and DONALD K. MATSUI to the County Public Health Facility Management Advisory Committee, County of Maui, terms to expire June 30, 1996 (Gov. Msg. No. 296);

ROBERT T. CHUCK to the Board of Certification of Operating Personnel in Water Treatment Plants, term to expire June 30, 1993 (Gov. Msg. No. 300);

CARL K. KAIAMA to the Board of Certification of Operating Personnel in Water Treatment Plants, term to expire June 30, 1994 (Gov. Msg. No. 300);

REGINALD H.F. YOUNG to the Board of Certification of Operating Personnel in Water Treatment Plants, term to expire June 30, 1995 (Gov. Msg. No. 300); and

ROYCE S. FUKUNAGA and ANNE TAKUSHI ZANE to the Board of Certification of Operating Personnel in Water Treatment Plants, terms to expire June 30, 1996 (Gov. Msg. No. 300).

Signed by all members of the Committee except Senator Aki.

SCRep. 2885 Housing and Hawaiian Programs on H.C.R. No. 164

The purpose of this Concurrent Resolution is to request the President of the United States and the Secretary of the Department of Housing and Urban Development to call upon the Federal Government to take the responsibility for providing funds for the construction and maintenance of low to moderate income housing in the State.

Your Committee heard testimony in support of this Concurrent Resolution from the Housing Finance and Development Corporation and Hawaii Housing Authority.

Your Committee finds that despite progress made by the states with respect to the development of new ideas and programs, many states simply lack the financial resources necessary to develop the housing necessary to meet the demand of local residents.

Your Committee on Housing and Hawaiian Programs concurs with the intent and purpose of H.C.R. No. 164, H.D. 1, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2886 Transportation and Intergovernmental Relations on H.C.R. No. 360

The purpose of this Concurrent Resolution is to urge that the integrity and capability of the Pacific Missile Range Facility in Mana, Kauai, be maintained.

Your Committee finds that the Pacific Missile Range Facility is of national strategic military value and of great economic value to Kauai.

Your Committee on Transportation and Intergovernmental Relations concurs with the intent and purpose of H.C.R. No. 360, H.D. 1, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2887 Health and Human Services on H.C.R. No. 4

The purpose of this Concurrent Resolution is to request the Department of Health to amend its administrative rules regarding admission policies of adult residential care home (ARCH) patients.

Your Committee finds that the concerns of adult residential care home operators regarding admission policies should be addressed. Your Committee further finds that the Department of Health should amend its rules regarding admissions policies to standardize and consolidate admission requirements and establish an appropriate level of care for ARCH patients.

Your Committee on Health and Human Services concurs with the intent and purpose of H.C.R. No. 4 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2888 Health and Human Services on H.C.R. No. 5

The purpose of this Concurrent Resolution is to ask the Legislative Reference Bureau to study a number of issues relating to the special care needs of Adult Residential Care Home (ARCH) operators.

Your Committee finds that there is a growing demand for community-based ARCH's for our frail elders and other persons with disabilities. Your Committee further finds that ARCH operators are faced with unwieldy administrative rules and a lack of resources which threatens their ability to continue to provide these essential services.

Your Committee on Health and Human Services concurs with the intent and purpose of H.C.R. No. 5 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 2889 Health and Human Services on H.C.R. No. 9

The purpose of this Concurrent Resolution is to request the Legislative Reference Bureau to study and propose recommendations to address concerns of Adult Residential Care Home (ARCH) operators on Molokai.

Your Committee finds that ARCH's provide community-based care to frail elders and other persons with disabilities. Your Committee further finds that ARCH operators on Molokai are faced with a lack of health services and sufficient financial resources which threatens their ability to provide adequate services.

Your Committee on Health and Human Services concurs with the intent and purpose of H.C.R. No. 9 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 2890 Health and Human Services on H.C.R. No. 325

The purpose of this Concurrent Resolution is to request the Department of Health to convene a task force to conduct a comprehensive review of the needs of and services available to medically fragile/technology dependent children and their families.

Your Committee finds that the needs of medically fragile/technology dependent children and their families represent a complex challenge which requires the coordinated efforts of multiple agencies. Your Committee received testimony in support of this Concurrent Resolution from the Departments of Health, Human Services, and Education, the State Planning Council on Developmental Disabilities, and Kapiolani Medical Center for Women and Children.

Your Committee on Health and Human Services concurs with the intent and purpose of H.C.R. No. 325, H.D. 1, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2891 Health and Human Services on H.C.R. No. 396

The purpose of this Concurrent Resolution is to urge the Department of Human Services, Health Care Administration Division, to designate a "sub-acute" level of health care.

Currently, levels of health care include trauma care, intensive care, acute care, skilled care and intermediate care. Consequently, reimbursement is not available to nursing homes which could provide sub-acute care.

Your Committee finds that approximately ten per cent of patients presently in acute care hospitals could be moved immediately to sub-acute care settings at a significant savings in medical costs. Your Committee further finds that the quality of life of patients in sub-acute care facilities is improved by receiving appropriate medical care in a home-like setting with activities and individual care available to suit the needs and abilities of the residents. Additionally, sub-acute care facilities would make additional beds available in presently crowded acute care hospitals. Sub-acute care is appropriate for the treatment of ventilator-dependent patients and AIDS patients, among others.

A formal recognition of a "sub-acute" level of health care will allow facilities which provide such care to receive federal reimbursement for their services.

Your Committee received testimony in support of this Concurrent Resolution from St. Francis Medical Center, The Convalescent Center of Honolulu, and the Hawaii Long Term Care Association. The Convalescent Center provided testimony of its successful sub-acute care pilot program for respiratory patients.

Your Committee on Health and Human Services concurs with the intent and purpose of H.C.R. No. 396 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2892 Health and Human Services on H.C.R. No. 141

The purpose of this Resolution is to recognize 1992 as the "Year of the Family" in Hawaii.

Your Committee believes that the family unit is the nucleus of society, holding together the institutions--the home, the school, the church, business, and all facets of society--which makes a nation great, proud, and strong.

Strengthening and preserving this bedrock of society--the family--is vital to the development and maturation of society as a whole.

Your Committee on Health and Human Services concurs with the intent and purpose of H.C.R. No. 141 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2893 (Majority) Health and Human Services on H.C.R. No. 429

The purpose of this Concurrent Resolution is to request the Department of Health to report on the status of vehicle noise abatement procedures, laws, and regulations in Hawaii.

Your Committee finds that urban noise is an unwanted, bothersome, and sometimes physically harmful intrusion during the late evening and night hours, especially in densely populated residential areas. Your Committee further finds that motor vehicles, especially when operated without an adequate muffling system intact, are one of the loudest and most disturbing noise producers.

Your Committee on Health and Human Services concurs with the intent and purpose of H.C.R. No. 429, H.D. 1, and recommends its adoption.

Signed by all members of the Committee.
Senator Koki did not concur.

LCRep. 2894 Executive Appointments on Gov. Msg. Nos. 303, 304, 305, 306, 311, 312, and 313

Recommending that the Senate advise and consent to the nominations of the following:

ANGELA CROMWELL THOMAS and YOSHIKI FUJITANI to the Advisory Council for Children and Youth, terms to expire June 30, 1996 (Gov. Msg. No. 303);

MYRNA B. MURDOCH to the Civil Defense Advisory Council, term to expire June 30, 1995 (Gov. Msg. No. 304);

JAMES T. MCCLELLAN and REUBEN YOSHIDA to the Civil Defense Advisory Council, terms to expire June 30, 1996 (Gov. Msg. No. 304);

EDWARD GUM HUNG AU, BERNARD T. MIURA and MELVYN T. KANAI to the Contractors License Board, terms to expire June 30, 1996 (Gov. Msg. No. 305);

VICTORIA LANI L. GANDIZA to the Commission on Persons with Disabilities, term to expire June 30, 1996 (Gov. Msg. No. 306);

STANLEY E. AMOS, DOLLY WON, PATRICIA RAE MUMFORD, TRACY J. TAKANO, HELEN R. NAGTALON-MILLER, EDWARD H. YOUNG, JR., FAYE KENNEDY, IRA VANTERPOOL, VICTORIA NAVARRO OANA, VERNYCE DANNELLS, SONIA P. JUVIK, Ph.D., DONNIS H. THOMPSON, Ed.D., and ROSALIND A. GRIFFIN-HAMBY to the Martin Luther King, Jr. Commission, terms to expire June 30, 1995 (Gov. Msg. No. 311);

WENDELL T. KOGA to the Pest Control Board, term to expire June 30, 1995 (Gov. Msg. No. 312);

CLAUDE Y. HEBARU, EARL JOJII SASAKI and MALCOLM T. KOGA to the Pest Control Board, terms to expire June 30, 1996 (Gov. Msg. No. 312); and

KATHLEEN H. CAMPBELL, LAURA Y. CHOCK, MAILE TANAKA SINGSON and CAROL K. KAWAGUCHI to the Board of Speech Pathology and Audiology, terms to expire June 30, 1995 (Gov. Msg. No. 313).

Signed by all members of the Committee.

LCRep. 2895 Executive Appointments on Gov. Msg. Nos. 318, 319, 320, 322, 323, 324, 327, 328, 330, and 331

Recommending that the Senate advise and consent to the nominations of the following:

HARVEY T. KODAMA and ALVIN M. YOSHIMORI to the Civil Service Commission, terms to expire June 30, 1996 (Gov. Msg. No. 318);

LOIS Y. OKINO to the Board of Trustees, Deferred Compensation Plan, term to expire June 30, 1993 (Gov. Msg. No. 319);

CHARLES OTA to the Board of Trustees, Deferred Compensation Plan, term to expire June 30, 1996 (Gov. Msg. No. 319);

DAISY C. YAMADA to the Board of Professional Engineers, Architects, Surveyors, and Landscape Architects, term to expire June 30, 1995 (Gov. Msg. No. 320);

MICHAEL S. CHU, MILES K. ONISHI, DOUGLAS K. SONODA and WAYNE T. WADA to the Board of Professional Engineers, Architects, Surveyors, and Landscape Architects, terms to expire June 30, 1996 (Gov. Msg. No. 320);

SUSAN W.F. TODANI to the Hawaii Community Development Authority, term to expire June 30, 1995 (Gov. Msg. No. 322);

SAM CALLEJO and T.C. YIM to the Hawaii Community Development Authority, terms to expire June 30, 1996 (Gov. Msg. No. 322);

BETTINA W.J. LUM and SANDRA T. OHARA to the Board of Directors of the Hawaii Information Network Corporation (Hawaii Inc.), terms to expire June 30, 1996 (Gov. Msg. No. 323);

KEITH A. GOTO to the Board of Trustees, Hawaii Public Employees Health Fund, term to expire June 30, 1993 (Gov. Msg. No. 324);

KENNETH T. KOIKE and WILLARD P. MIYAKE to the Board of Trustees, Hawaii Public Employees Health Fund, terms to expire June 30, 1996 (Gov. Msg. No. 324);

EDISON R.K. KEOMAKA and CLARENCE MILLS to the Board of Directors, Housing Finance and Development Corporation, terms to expire June 30, 1996 (Gov. Msg. No. 327);

CHARLES T. AKAMA to the Labor and Industrial Relations Appeals Board, term to expire June 30, 1996 (Gov. Msg. No. 328);

CAROL KIKUE YAMAMOTO to the Labor and Industrial Relations Appeals Board, term to expire June 30, 1998 (Gov. Msg. No. 328);

FRANK J. YAP, JR., to the Labor and Industrial Relations Appeals Board, term to expire June 30, 2000 (Gov. Msg. No. 328);

RICHARD N. WEST to the Board of Directors, Natural Energy Laboratory of Hawaii Authority, term to expire June 30, 1996 (Gov. Msg. No. 330);

YEIKO "TONY" ARAKAKI to the Board of Public Broadcasting, term to expire June 30, 1995 (Gov. Msg. No. 331); and

MILLICENT L. WELLINGTON to the Board of Public Broadcasting, term to expire June 30, 1997 (Gov. Msg. No. 331).

Signed by all members of the Committee.

SCRep. 2896 Agriculture and Environmental Protection on S.R. No. 30

The purpose of this Resolution is to urge the Congress and the President of the United States of America to suspend trade relations with any nation supporting or sanctioning the practice of driftnet fishing.

Your Committee finds that driftnet fleets are capable of spinning out approximately 30,000 miles of net every day. This capability is decimating the Pacific fisheries resource and also indiscriminately traps and kills many endangered or threatened marine wildlife.

Your Committee has amended the measure by amending the title and body of the Resolution to urge the President and Congress of the United States to support federal and international efforts to sanction driftnet fishing and by adding a clause which requests support for United Nations General Assembly Resolution No. 46/215, calling for a global moratorium on driftnet fishing.

Your Committee on Agriculture and Environmental Protection concurs with the intent and purpose of S.R. No. 30, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 30, S.D. 1.

Signed by all members of the Committee except Senators Ikeda and Solomon.

SCRep. 2897 (Majority) Housing and Hawaiian Programs on H.C.R. No. 85

The purpose of this Concurrent Resolution is to urge the counties to revise existing building codes to increase population densities in area zoned for urbanization and to allow the use of the state-of-the-art technology to make homes resource self-sufficient and less burdensome on infrastructure systems.

Your Committee finds that there are a number of local zoning and building regulations that impede the use of innovative methods to meet our urgent housing needs. Your Committee received testimony in support of this Concurrent Resolution from Nick Huddleton, AIA, Hawaii Association of Realtors, and the Hawaii Developers Council.

Your Committee has amended both the title and substance of this Concurrent Resolution by:

1. Including zoning ordinances and subdivision and infrastructure standards in the evaluation;
2. Allowing state-of-the-art technology to be considered for existing developments; and
3. Making technical amendments for the purposes of clarity and style.

Your Committee on Housing and Hawaiian Programs concurs with the intent and purpose of H.C.R. No. 85, H.D. 1, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 85, H.D. 1, S.D. 1.

Signed by all members of the Committee.
Senator McMurdo did not concur.

SCRep. 2898 Housing and Hawaiian Programs on H.C.R. No. 86

The purpose of this concurrent resolution is to request that the United States Congress provide federal housing impact aid funds for infrastructure development, construction, and maintenance of housing units and facilities for military dependants.

Your Committee finds that a shortage of affordable housing is a major problem in Hawaii which affects local residents as well as military personnel. The military population competes with local civilians for rental housing. Your Committee finds that federal aid in providing military housing will aid in solving the housing crisis for both segments of the population.

Your Committee has amended this concurrent resolution to clarify that federal funds are requested for the development, construction and maintenance of housing and facilities for military dependants and to provide that the Secretary of Defense, the Commander in Chief of the Pacific Fleet, the Commander of the Oahu Consolidated Family Housing Office, and the Military Affairs Council of the Chamber of Commerce of Hawaii receive certified copies of the concurrent resolution.

Your Committee on Housing and Hawaiian Programs concurs with the intent and purpose of H.C.R. No. 86, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 86, S.D. 1.

Signed by all members of the Committee except Senator McMurdo.

SCRep. 2899 Housing and Hawaiian Programs on H.C.R. No. 390

The purpose of this Concurrent Resolution is to request that the Housing Finance and Development Corporation study the feasibility of having the State:

- (1) Acquire the Tropicana West Apartment Complex from Mayer and the Robinson Entities;
- (2) Acquire the fee interest in the land underlying the Tropicana West from the Robinson Entities;
- (3) Explore the possibility of the issuance of general obligation or revenue bonds for the negotiation and purchasing of the Tropicana West Apartment Complex;
- (4) Request that owners of the Tropicana West consider other options, including, but not limited to, the Mutual Housing Association; and
- (5) Explore other possibilities to ensure that Tropicana West continues to provide rental housing for lower-income and Section 8 tenants.

Your Committee heard testimony in support of this Concurrent Resolution from the Housing Finance and Development Corporation.

Your Committee has made several nonsubstantive technical amendments to the resolution.

Your Committee on Housing and Hawaiian Programs concurs with the intent and purpose of H.C.R. No. 390, H.D. 1, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 390, H.D. 1, S.D. 1.

Signed by all members of the Committee.

SCRep. 2900 Health and Human Services on H.C.R. No. 6

The purpose of this Concurrent Resolution is to request the Legislative Reference Bureau to conduct a study on the feasibility and ramifications of amending the current definition of an Adult Residential Care Home (ARCH) to allow operators to take in a family member or a relative as a patient.

Your Committee finds that ARCHs provide an important community-based service for our State's frail elderly population and for other persons with disabilities. Your Committee further finds that the study should consider such issues as definition of relatives, reimbursement rates, the number of beds care homes could make available to relatives versus non-relatives, and whether the rules regulating adult residential care home operators should be amended.

Your Committee has amended this Concurrent Resolution by making technical amendments for the purposes of clarity and style which do not affect its substance.

Your Committee on Health and Human Services concurs with the intent and purpose of H.C.R. No. 6, as amended herein, and recommends that it be referred to the Committee on Legislative Management, in the form attached hereto as H.C.R. No. 6, S.D. 1.

Signed by all members of the Committee except Senator Yamasaki.

SCRep. 2901 Health and Human Services on H.C.R. No. 262

The purpose of this measure is to request the Governor to ensure that adequate resources are provided to the Office of Hawaiian Health within the Department of Health (DOH).

Your Committee finds that the Office of Hawaiian Health (OHH) was established to recognize and respond to the deteriorating health status of the native Hawaiian people. Your Committee further finds that the legislature specifically provided funds and staffing in the fiscal biennium 1991-1993 for the OHH and considers this a priority program within the DOH.

Your Committee on Health and Human Services concurs with the intent and purpose of H.C.R. No. 262, H.D. 1, and recommends its adoption.

Signed by all members of the Committee except Senator Yamasaki.

SCRep. 2902 (Majority) Employment and Public Institutions on H.C.R. No. 94

The purpose of this Concurrent Resolution is to urge Hawaii's Congressional Delegation to investigate the feasibility of enabling freer in-migration of Filipinos who will work as domestic and agricultural laborers.

America has always opened her doors to economic and political refugees who wish to establish new lives under the blanket protections of American Democracy and free enterprise. Filipinos have taken advantage of these opportunities for many decades; however, recent political and environmental upheavals in the Philippines would seem to justify eased requirements to enable more immigration, especially to those persons inclined to enter the work force in domestic and agricultural positions.

Your Committee on Employment and Public Institutions concurs with the intent and purpose of H.C.R. No. 94 and recommends its adoption.

Signed by all members of the Committee except Senator Blair.
Senator Koki did not concur.

SCRep. 2903 Employment and Public Institutions on H.C.R. No. 215

The purpose of this Concurrent Resolution is to request Hawaii's Congressional Delegation to facilitate the efforts of Filipino Veterans of World War II to become naturalized citizens.

Original authority for Filipino veterans to become American citizens lapsed soon after the war and was not revived until very recently. In response to this newly established window of opportunity, Hawaii expects to be inundated by Filipino veterans and their families because the pre-naturalization interviews must by law be held in the United States. This Concurrent Resolution commends the efforts of local resettlement agencies in helping to meet the needs of these individuals and requests appropriations and other actions to ensure that citizenship seekers and their families can remain in Hawaii at least until their missions are fulfilled.

The Concurrent Resolution also requests that steps be taken to allow pre-naturalization interviews in the Philippines.

Your Committee finds that all appropriate efforts should be made to accommodate applicants who have been waiting decades for the opportunity to become citizens of the country for which they fought.

Your Committee on Employment and Public Institutions concurs with the intent and purpose of H.C.R. No. 215, H.D. 1, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2904 Science, Technology and Economic Development on H.C.R. No. 14

The purpose of this Concurrent Resolution is to request that the Legislative Reference Bureau conduct a study to determine the feasibility of establishing a warehouse district for businesses in Hawaii and to consider other ways of addressing the need for industrial sites near sea and air cargo terminals.

Your Committee finds that the high and escalating cost of land has caused a scarcity of affordable warehouse space near sea and air cargo terminals. As warehouses and other distribution businesses relocate further from terminals where goods arrive, transportation costs increase and are passed on to consumers.

Your Committee on Science, Technology and Economic Development concurs with the intent and purpose of H.C.R. No. 14, H.D. 1, and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Senator Aki.

SCRep. 2905 Science, Technology and Economic Development on H.C.R. No. 18

The purpose of this Concurrent Resolution is to urge the United States Congress to open the cable television industry to more competition and restore rate regulation by state and local governments.

Your Committee finds that cable rates have risen as much as ninety-nine percent since the deregulation of rates in 1984.

Your Committee does not agree that increased competition in the industry is a proper solution to this problem and has therefore amended the title and body of the Concurrent Resolution to delete all references to it.

Your Committee on Science, Technology and Economic Development concurs with the intent and purpose of H.C.R. No. 18, H.D. 1, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 18, H.D. 1, S.D. 1.

Signed by all members of the Committee except Senators Aki and Holt.

SCRep. 2906 Science, Technology and Economic Development on H.C.R. No. 56

The purpose of this Concurrent Resolution is to urge the Hawaii business community to consider sponsoring business internships for foreign students in the Traineeship Exchange Program of the International Association of Students in Economics and Commerce-Hawaii.

Your Committee finds that the Traineeship Exchange Program of the International Association of Students in Economics and Commerce provides college students with an invaluable, hands-on opportunity to study and understand business as it is conducted in another country. This is especially important in today's age of global interdependency. Because of the reciprocal nature of the program, the number of foreign internships that will be available to our students depends as much on what is made available to foreign students here as what is made available to our students abroad.

Your Committee on Science, Technology and Economic Development concurs with the intent and purpose of H.C.R. No. 56 and recommends its adoption.

Signed by all members of the Committee except Senator Aki.

SCRep. 2907 Agriculture and Environmental Protection on H.B. No. 2082

The purpose of this bill is to clarify and modify the procedures for agricultural cooperative mergers and consolidations.

Testimony in support of the bill was received from the United States Department of Agriculture's Agricultural Cooperative Service, the Department of Commerce and Consumer Affairs, the 50th State Dairy Cooperative, the Hawaii Farm Bureau Federation, the Kona Farmers Cooperative, and the Pacific Coffee Cooperative.

The existing law requires an agricultural cooperative to follow the general corporation law under Chapter 415, Hawaii Revised Statutes (HRS), when merging or consolidating with another domestic or foreign agricultural cooperative. An agricultural cooperative is a unique business entity and in some regards very different from a general corporation. These fundamental differences are significant enough to warrant special attention when mergers or consolidations are being considered. These differences are not addressed in the existing law and create several unresolved problems:

- (1) Terms and definitions used in Chapter 415 may or may not apply to agricultural cooperatives. It may take a lengthy and expensive court ruling to determine which definitions and terms do apply and which do not apply to an agricultural cooperative attempting to merge or consolidate.
 - (A) The definition of "shares" in the general corporation laws, "the units into which the proprietary interests in a corporation are divided," appears broad enough to encompass all types of patron investments in an agricultural cooperative, not just those specifically labeled as stock. (Section 415-2, HRS).
 - (B) Most agricultural cooperatives in the State do not issue stock. Members of an agricultural cooperative own the business. Most of their investments are usually represented by retained earnings. There is no real distinction as to whether existing law intends for retained earnings of an agricultural cooperative to be treated the same as stock in a general corporation.
 - (C) If it is determined that retained earnings are the same as stock, then an agricultural cooperative would be forced to pay these equities out at the time of a merger or consolidation. This generally goes against an agricultural cooperative's bylaws, which call for an orderly and systematic revolving of these equities in order to ensure ownership is kept current. Also, most agricultural cooperatives cannot afford to pay the full value of retained earnings to members that are "dissenters" as defined in the existing law.
 - (D) If it is determined that retained earnings are the same as stock, then an agricultural cooperative would be forced to pay "shareholders" "fair compensation" for shares. At what value does an agricultural cooperative pay? At the book value of the members retained earnings or at the current market value of the cooperative?
- (2) Under the general corporation law, stockholders have the right to be paid off for their shares if they oppose the merger or consolidation (thus exercising their dissenters rights). Dissenters rights force a financially strapped agricultural cooperative to obtain close to a 100 percent approval of the merger or consolidation. A lower vote forces financially strapped agricultural cooperatives to liquidate assets to raise cash to pay off dissenters. Liquidating the business defeats the whole purpose of merging or consolidating. Usually a merger or consolidation would only be considered by a financially strapped cooperative. Most agricultural cooperatives are not in the position to pay off this equity.
 - (A) As the U.S. Supreme Court recognized in United Housing Foundation v. Forman, members finance their cooperative for different reasons than investors finance a general business corporation. In a general business corporation, investors are hoping for "capital appreciation resulting from the development of the initial investment" or "a participation in earnings resulting from the use of investors' funds"; in other words, "the investor is 'attracted solely by the prospect of a return' on his investment." (95 Sup. Ct. 2051, 2060).
 - (B) In a cooperative the members provide capital "not as a means of returning profits" to themselves as investors but rather "for the purpose of making essential services available" for themselves. (95 Sup. Ct. at 2063). While this case involved a housing cooperative, the same principles apply to all cooperatives. They have been assimilated into the definition of "association" in the Hawaii Agricultural Associations Act, Section 421-1, HRS, which reads:

"Association" means any corporation organized under this chapter for the mutual benefit of its members, as agricultural producers, and which confines its operations to purposes authorized by this chapter and restricts the return on the stock or membership capital and the amount of its business with nonmembers to the limits placed thereon by this chapter for associations organized hereunder;... Association shall be classified as and deemed to be nonprofit corporations, inasmuch as their primary object is not to pay dividends on invested capital, but to render service and provide means and facilities by or through which the producers of agricultural products may receive a reasonable and fair return for their products. (Emphases added).
 - (C) These special characteristics force agricultural cooperatives to rely on their members to provide equity capital; thus the accumulation of equity is a major challenge. In most agricultural cooperatives, members make a minimal investment at the time they join the association and then make additional contributions of capital on the basis of the amount of business they do with the association each year (patronage-based investments). The more a member benefits from the services to the cooperative, the greater the member's obligation to provide capital to fund the cooperative.
 - (D) When an agricultural cooperative is sufficiently capitalized, the board has the discretion to redeem the patronage-based investments that have been on the books for the longest period of time. Thus these investments are returned to the persons who made them in a manner that does not disrupt the ability of the cooperative to continue providing services to current members on an ongoing basis.

- (E) The general corporation law provides for dissenters' rights (§§415-80 and 415-81). Application of dissenters' rights to an agricultural cooperative reorganization places the associations involved in a very difficult situation. If the cooperatives do not reorganize, they may not be competitive and viable in the future. But persons who no longer use the services of the cooperative may have funds invested as part of their obligation to fund the association during the time they did receive the benefits of active patronage. If the cooperatives do reorganize, former patrons and even some current patrons may pull out their investments and the associations again may not be viable and competitive. An agricultural cooperative can't just issue and sell more stock to the general public to replace funds drained by dissenters. It must rely on its members for equity capital and those members simply may not have the funds to replace those withdrawn by dissenters.

In summary, members of an agricultural cooperative make investments at the time they receive the benefits of cooperative patronage, and in proportion to the benefits received. Redemption programs return this equity and it applies to all members uniformly. These are convincing arguments for not introducing dissenters' rights into the cooperative environment and disrupting the evolutionary development of these organizations.

Your Committee on Agriculture and Environmental Protection is in accord with the intent and purpose of H.B. No. 2082, H.D. 2, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2908 Ways and Means on H.B. No. 3097

The purpose of this bill is to make low-income housing tax credits applicable to banks and financial institutions.

Your Committee finds that banks and financial institutions are allowed a federal income tax credit to encourage the development of low-income housing. The current state law does not provide a similar credit for banks and financial institutions but does provide a low-income housing tax credit to other taxpayers. Your Committee finds that expanding the existing low-income tax credit to banks and financial institutions would encourage those organizations to participate in the development of low-income housing.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3097, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2909 Ways and Means on H.B. No. 3295

The purpose of this bill is to clarify the responsibilities of the State and the counties with regard to providing assistance in the form of tax relief to victims of natural disasters.

In addition, this measure includes the counties as a source of real property tax relief to natural disaster victims. The bill also amends the tax relief for natural disasters law to appropriately refer to applicable county real property tax ordinances as well as the state real property tax law.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3295, H.D. 2, and recommends that it pass Second Reading, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Aki.

SCRep. 2910 Ways and Means on H.B. No. 3274

The purpose of this bill is to amend the law relating to the conveyance tax by resetting the increments on which the tax is computed from 5 cents per \$100 to 50 cents per \$1,000, or portion thereof rounded to the nearest \$1,000.

Your Committee finds that this bill does not change the rate of tax; however, it would simplify the tax computation and the processing of real estate documents.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3274, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2911 Ways and Means on H.B. No. 3642

The purpose of this bill is to issue special purpose revenue bonds to assist the Wailuku River Hydroelectric Power, Company, Inc., in establishing a hydroelectric power plant and related facilities.

Your Committee finds that hydroelectric power, which produces clean, nonpolluting renewable energy from Hawaii's streams, provides the State with a safe and viable alternative to the energy produced by fossil fuels. By taking steps toward diversifying available energy resources, the State will be able to move away from an almost-total dependence upon imported oil, thereby diminishing the serious environmental risks associated with heavy fossil-fuel use. The special purpose revenue bonds will assist the Wailuku River Hydroelectric Power, Company, Inc., in establishing hydropower plants and related facilities that will help to reduce Hawaii's dependence upon imported oil, while simultaneously increasing the economic stability and environmental health of the State.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3642 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2912 Ways and Means on H.B. No. 3697

The purpose of this bill is to dedicate all private source revenues received each year while a county general excise and use tax surcharge is in effect to the capital cost of the fixed rail rapid transit system.

This bill clarifies that private source revenues received prior to the operation of the fixed rail rapid transit system, as well as during the effective period of a tax surcharge, shall be committed to the funding of the capital costs of the fixed rail transit system.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3697, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2913 Ways and Means on H.B. No. 3155

The purpose of this bill is to update the statutory references relating to the taxation of trade or business income of taxpayers operating both within and outside of Hawaii.

Your Committee notes that this administration measure merely replaces the existing obsolete statutory reference with a corrected reference to the Uniform Division of Income for Tax Purposes Act, which is codified as sections 235-21 to 235-39, Hawaii Revised Statutes. Your Committee believes that this bill reflects the proper reference for the allocation of income of these taxpayers.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3155 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2914 Ways and Means on H.B. No. 3063

The purpose of this bill is to extend the repeal date for the teacher incentive program at the University of Hawaii from June 30, 1992, to June 30, 1999.

The teacher incentive program grants tuition waivers to University of Hawaii students who agree to pursue an academic curriculum that would qualify them to teach in Hawaii's public schools. Your Committee finds that extending the program for a few more years is beneficial as the program has encouraged students to prepare and seek certification in declared shortage areas, and assisted nontraditional students to complete necessary coursework for a career in education.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3063 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2915 Ways and Means on H.B. No. 2374

The purpose of this bill is to allow the department of land and natural resources to participate on behalf of Hawaii with other western states in a joint liaison program with the Center for Ocean Analysis and Prediction of the National Oceanic and Atmospheric Administration.

Participation in this program would assist the states in taking maximum advantage of oceanographic data, products, and services available from the federal government and would serve to open communications and encourage cooperation between the federal government and the western states.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2374 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2916 Ways and Means on H.B. No. 3160

The purpose of this bill is to allow S corporations to pass the benefits of the tax credit for employment of vocational rehabilitation referrals to its shareholders.

Your Committee finds that the income and expenses of S corporations are passed through to the shareholders of the corporations to report on the shareholders' returns. Rarely would an S corporation incur a tax liability at the corporate level. Other tax credits earned by S corporations are presently passed through to shareholders and claimed on the shareholders' returns. The income tax credit for employment of vocational rehabilitation referrals was omitted from the list of tax credits that S corporations can pass through to the shareholders in section 235-129, Hawaii Revised Statutes. This bill would correct this omission.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3160 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2917 Ways and Means on H.B. No. 3396

The purpose of this bill is to grant permanent status to twelve employees of the Hawaii civil rights commission who currently occupy permanent, civil service positions on a temporary, exempt basis.

Act 299, Session Laws of Hawaii 1990, and Act 296, Session Laws of Hawaii 1991, provided funding for these positions despite section 368-3(8), Hawaii Revised Statutes, requiring investigators and support staff assigned to the commission to be civil service employees.

Your Committee finds that this action was justified because the commission needed time to classify the positions subject to civil service procedures, complete organization, adopt rules, and set up its operations.

Your Committee also finds that the commission has invested considerable resources in training the employees on laws, investigating skills, processing of cases, clerical handling of cases, screening complaints, and maintenance of the commission's internal and federally-linked computer information system. It would be inappropriate and contrary to the best interests of the commission, the State's civil rights enforcement efforts, and the affected employees if they are not granted permanent status.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3396 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 2918 Ways and Means on H.B. No. 3152

The purpose of this bill is to revise the manner in which interest is computed on the refund, underpayment, and nonpayment of taxes collected by the department of taxation.

Your Committee finds that a recent amendment to the state tax law established staggered dates for the calculation of additional interest on the underpayment or nonpayment of taxes, and for the calculation of penalties on taxes due. Under current law, interest calculations on the nonpayment or underpayment of taxes begins on the due date of the tax return; penalty calculations begin on the day after the due date of the tax return. To ensure conformity between these dates, this bill requires calculations of interest to begin on the day after the due date of the tax return. This bill also requires that interest calculations on overpayments on returns filed in a timely manner start on the day after the due date established for the payment of the tax.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3152, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2919 Ways and Means on H.B. No. 3154

The purpose of this bill is to require persons electing to appeal an assessment of any tax to make full payment of the contested amounts prior to any adjudicative hearing. The bill allows the filing of an appeal without such payment where the total tax liability does not exceed \$50,000 in the aggregate for all tax years upon proof that the taxpayer would be irreparably injured by the payment of the tax.

Currently, disputed general excise, use, transient accommodations, liquor, tobacco, and rental motor vehicle and tour vehicle surcharge taxes must be paid before an appeal may be taken to the board of review or the tax appeal court while prepayment is not required by the laws governing income tax, public service company tax, and taxation of banks and other financial corporations. Hawaii's estate and transfer tax, fuel tax, and conveyance tax laws do not allow taxpayers the right to appeal. These inconsistencies in the application of Hawaii's tax laws are corrected by this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3154, H.D. 2, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2920 Ways and Means on H.B. No. 3159

The purpose of this bill is to clarify provisions of the general excise tax law relating to the assessment and levying of the tax.

This measure modifies ambiguous language relating to the time period a taxpayer has to file for a refund of general excise taxes paid, and therefore will help taxpayers not to misinterpret the proper application of section 237-7(d), Hawaii Revised Statutes. This bill also allows the director of taxation and the taxpayer to extend by agreement the time period allowed to file for a credit.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3159, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2921 Ways and Means on H.B. No. 3110

The purpose of this bill is to clarify the State's right to recover unclaimed property when the address of the owner is unknown.

The State is presently involved in a lawsuit to determine who is entitled to assume custody of unclaimed dividends, interest, and other distributions paid on securities by an entity when the current address of the owner is unknown. Special counsel representing the State has recommended this amendment to enhance the State's ability to recover these properties.

This bill authorizes the State to recover unclaimed properties under whatever test is ultimately adopted by the United States Supreme Court to define the "state of the issuer" of those properties.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3110, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2922 Ways and Means on H.B. No. 3156

The purpose of this bill is to allow affiliated corporations an income tax deduction for dividends received from other members of the affiliated group, and to incorporate a reduction in the percentage, from eighty per cent to seventy per cent, of deductions for certain dividends received.

This measure will allow those corporations which are able to report their income and file their income tax returns on a consolidated basis for federal purposes to reduce their taxable income for Hawaii purposes by the full amount of dividends received from other members of the affiliated group of corporations.

This measure also adopts a 1988 federal amendment to the Internal Revenue Code that was not previously adopted that reduces the amount of deduction allowed for certain dividends from eighty to seventy per cent.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3156 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2923 Transportation and Intergovernmental Relations on H.C.R. No. 105

The purpose of this Concurrent Resolution is to request that the Department of Transportation, in conjunction with the City and County of Honolulu, implement alternatives to eliminate traffic congestion on Waikui and Waieli Streets.

Your Committee finds that the use of Waikui and Waieli Streets as major access routes for eastbound Kalaniana'ole Highway traffic in the vicinity of Kalani School is inappropriate and detrimental to the health and safety of residents of the area. It is, therefore, imperative that alternatives be implemented to remove the burden that has been unfairly placed on this community.

Your Committee on Transportation and Intergovernmental Relations concurs with the intent and purpose of H.C.R. No. 105, H.D. 1, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2924 Transportation and Intergovernmental Relations on H.C.R. No. 199

The purpose of this Concurrent Resolution is to express legislative opposition to the Department of Transportation's plan to impose a \$3.00 passenger facility charge (PFC) on all enplaning Honolulu International Airport passengers.

Your Committee finds that there is no substantial evidence to justify the imposition of a \$3.00 PFC which, if imposed, will adversely affect our tourism industry, as well as island residents.

Your Committee has amended the Concurrent Resolution as follows:

By amending the title and the first BE IT RESOLVED paragraph to delete language urging the Department of Transportation not to impose a PFC and inserting language therefor urging that the Department take no action to impose a PFC until after the 1993 Legislature has had an opportunity to review the need for it.

By amending a WHEREAS paragraph to note that the \$3 PFC would be imposed at the Honolulu Interisland Airport, as well as the Honolulu International Airport.

By adding a WHEREAS paragraph to note that interisland, interstate, and international travel within and without the State is done primarily by air transportation.

By amending a WHEREAS paragraph on federal funding to note the lack of evidence to substantiate that federal funding will fall short of meeting projected airport capital development needs.

By adding a WHEREAS paragraph on the lack of evidence to justify the imposition of a PFC.

By adding a WHEREAS paragraph on the need for a study to determine if a PFC should be imposed and the amount, if any, of it.

By adding a paragraph requesting that the Department of Transportation submit a report to the Legislature prior to the 1993 session showing a need for a PFC and a list of the capital improvement projects that will be funded from it.

Your Committee on Transportation and Intergovernmental Relations concurs with the intent and purpose of H.C.R. No. 199, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 199, S.D. 1.

Signed by all members of the Committee.

SCRep. 2925 Agriculture and Environmental Protection on H.C.R. No. 15

The purpose of this Concurrent Resolution is to request the United States Congress to fund the brown tree snake eradication program on Guam, and to expand the program to include Hawaii.

Your Committee finds that the high population of brown tree snakes on Guam constitutes a serious threat to Hawaii and other Pacific regions that are free of snakes. In the past ten years, six brown tree snakes have been found in Hawaii, three of which were discovered within the past two years. The snakes have been transported to Hawaii as stowaways in aircraft or cargo, in the wheelwells of aircraft, or on commercial or military ships. The probability of brown tree snake movement from Guam to Hawaii and other Pacific regions will continue to be high unless steps are taken to deal with the problem on Guam.

Your Committee on Agriculture and Environmental Protection concurs with the intent and purpose of H.C.R. No. 15, H.D. 1, and recommends its adoption.

Signed by all members of the Committee except Senators Ikeda and Reed.

SCRep. 2926 Agriculture and Environmental Protection on H.C.R. No. 27

The purpose of this Concurrent Resolution is to create a blue ribbon panel made up of appropriate representatives to review all the possible alternatives for meeting the goals of the Clean Air Amendments of 1990 as they relate to hazardous emissions from motor vehicles.

Your Committee finds that the ultimate goal of the Clean Air Amendments of 1990, as they relate to hazardous emissions from motor vehicles, is to provide a clean and healthful environment through the use of alternate fuels for our dependence on gasoline and diesel fuel.

The blue ribbon panel is to be charged with reviewing all the possible alternatives for meeting the goals of the Clean Air Amendments of 1990, as they relate to hazardous emissions from motor vehicles, and to report its findings and recommendations to the Legislature prior to the convening of the Regular Session of 1994.

Your Committee on Agriculture and Environmental Protection concurs with the intent and purpose of H.C.R. No. 27, H.D. 1, and recommends its adoption.

Signed by all members of the Committee except Senators Ikeda and Reed.

SCRep. 2927 Agriculture and Environmental Protection on H.C.R. No. 100

The purpose of this Concurrent Resolution is to improve communication between the United States Secretary of Defense and the State of Hawaii about all operational plans and procedures conducted at Johnston Island.

Your Committee finds that there is a potential threat to the health and well-being of the people of Hawaii should the chemical weapons being stored and incinerated on Kalama Island (Johnston Island) be mishandled. Your Committee further finds that communication from the Program Manager for Chemical Demilitarization, United States Army, has been unsatisfactory.

Your Committee on Agriculture and Environmental Protection concurs with the intent and purpose of H.C.R. No. 100, H.D. 1, and recommends its adoption.

Signed by all members of the Committee except Senators Ikeda and Reed.

SCRep. 2928 Agriculture and Environmental Protection on H.C.R. No. 119

The purpose of this Concurrent Resolution is to request the Director of Health to update the Nonpoint Source Assessment Report and Management Plan in anticipation of additional State funding of the Nonpoint Source Program, to:

- (1) Ensure that the Program effectively addresses the problems of point and nonpoint source pollution;
- (2) Ensure that Hawaii complies with the Clean Water Act of 1977; and
- (3) Protect the State's nearshore waters.

Your Committee finds that Hawaii's nonpoint source pollution problems are becoming more acute every year and must be addressed in order to maintain an acceptable level of ocean water quality for residents and visitors alike. It is essential to take more proactive steps to address these problems, and updating the Nonpoint Source Assessment Report and Management Plan is the most significant initial task the State must undertake to begin this proactive problem-solving process.

Your Committee on Agriculture and Environmental Protection concurs with the intent and purpose of H.C.R. No. 119, H.D. 1, and recommends its adoption.

Signed by all members of the Committee except Senator Ikeda.

SCRep. 2929 Agriculture and Environmental Protection on H.C.R. No. 175

The purpose of this Concurrent Resolution is to request the Department of Health (DOH) to perform a comprehensive evaluation of the sewage treatment needs of Oahu's North Shore region (North Shore) which addresses, inter alia, the following issues:

- (1) The detrimental effects of wastewater from cesspools on public safety and the environment;
- (2) The feasibility of installing a sewage treatment system;
- (3) The feasibility of using alternative methods to solve the area's sewage problems, including the cost of such alternatives; and
- (4) The estimated time frame of government agency response to remedy the area's sewage problems.

Your Committee believes that an evaluation of the current sewage treatment needs and situation on the North Shore is warranted, given the adverse impact which cesspool failure and untreated wastewater may have on the public health and the environment.

Your Committee on Agriculture and Environmental Protection concurs with the intent and purpose of H.C.R. No. 175 and recommends its adoption.

Signed by all members of the Committee except Senators Ikeda and Reed.

SCRep. 2930 Agriculture and Environmental Protection on H.C.R. No. 177

The purpose of this Concurrent Resolution is to request the United States Environmental Protection Agency to consider extending the December 31, 1993 financial assurance compliance deadline applicable to small business underground storage tank owners and operators in Hawaii.

Your Committee finds that the federal Environmental Protection Agency (EPA) has extended the deadline for small business tank owners and operators to acquire financial assurance for the clean up of possible petroleum releases from their tanks to December 31, 1993. However, small business tank owners predict that the latest extension is insufficient because of their limited financial means, coupled with the fact that a Department of Health study on establishing an assurance fund in Hawaii has shown that such a fund is not economically feasible. Although the State has recently established a revolving capital loan fund to assist small business tank owners and operators in complying with tank standards for insurability, it is too early for small businesses to capitalize on the benefits of such a new assistance program.

Your Committee on Agriculture and Environmental Protection concurs with the intent and purpose of H.C.R. No. 177, H.D. 1, and recommends its adoption.

Signed by all members of the Committee except Senators Ikeda and Reed.

SCRep. 2931 Agriculture and Environmental Protection on H.C.R. No. 212

The purpose of this Concurrent Resolution is to request the Director of the Office of International Relations, the President of the University of Hawaii, and the President of the East-West Center, or their designees, to develop a program to implement the goal of supporting professional and technical cooperation with the Republic of Palau, the Federated States of Micronesia, the Republic of the Marshall Islands, and other Pacific Island nations.

Your Committee finds the measure would promote enhanced relations between the State and Micronesian and South Pacific Island nations.

Your Committee on Agriculture and Environmental Protection concurs with the intent and purpose of H.C.R. No. 212, H.D. 1, and recommends its adoption.

Signed by all members of the Committee except Senators Ikeda and Reed.

SCRep. 2932 Agriculture and Environmental Protection on H.C.R. No. 265

The purpose of this Concurrent Resolution is to request that the President of the United States invoke restrictive trade sanctions against countries that continue to practice driftnet fishing. In addition, Korea and Taiwan are specifically urged to halt fishing with this technique and to adopt the United Nations agreement which bans driftnetting.

Fishing with driftnets can decimate an entire fishery and indiscriminately kill a host of marine mammals, birds, and other forms of life. The United States has prohibited the use of driftnets and has been successful in securing Japan's endorsement of the United Nations resolution banning driftnet fishing.

Your Committee on Agriculture and Environmental Protection concurs with the intent and purpose of H.C.R. No. 265, H.D. 1, and recommends its adoption.

Signed by all members of the Committee except Senators Ikeda and Reed.

SCRep. 2933 Agriculture and Environmental Protection on H.C.R. No. 283

The purpose of this Concurrent Resolution is to request the Departments of Business, Economic Development, and Tourism and Health to conduct a comprehensive analysis of the impacts of State and federal oil carrier liability laws on interisland shipments of oil.

Your Committee finds that the information collected as a result of the analysis requested through this measure will assist the State in determining the most appropriate course of action to pursue.

Your Committee on Agriculture and Environmental Protection concurs with the intent and purpose of H.C.R. No. 283, H.D. 1, and recommends its adoption.

Signed by all members of the Committee except Senators Ikeda and Reed.

SCRep. 2934 Agriculture and Environmental Protection on H.C.R. No. 284

The purpose of this resolution is to request the Office of International Relations and the Department of Business, Economic Development and Tourism to recommend ways to encourage commercial activities between Hawaii and the Philippines.

Your Committee finds that the State will benefit from developing and maintaining strong economic linkages between Hawaii and the Philippines through the growth of new markets and expansion of existing businesses.

Your Committee has amended this Resolution by including "the Senate concurring" in the first BE IT RESOLVED clause and by making technical amendments for the purpose of clarity and style.

Your Committee on Agriculture and Environmental Protection concurs with the intent and purpose of H.C.R. No. 284, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 284, S.D. 1.

Signed by all members of the Committee except Senators Ikeda and Reed.

SCRep. 2935 Agriculture and Environmental Protection on H.C.R. No. 297

The purpose of this Concurrent Resolution is to request the Department of Agriculture to review its plant quarantine system, from both the developmental and environmental perspectives, and develop a long-term action plan to prevent the introduction of new weedy plants and insect pests through the plant importation process.

Your Committee supports the intent of the measure and agrees that a long-term action plan is necessary to protect the citizens and environment of the State.

Your Committee on Agriculture and Environmental Protection concurs with the intent and purpose of H.C.R. No. 297, H.D. 1, and recommends its adoption.

Signed by all members of the Committee except Senators Ikeda and Reed.

SCRep. 2936 Agriculture and Environmental Protection on H.C.R. No. 298

The purpose of this Concurrent Resolution is to request the Departments of Agriculture, Transportation, and the United States Department of Agriculture to jointly study the feasibility of establishing an airport amnesty bin project at airports servicing incoming overseas flights.

Your Committee finds that these bins, as used in New Zealand and Australia, would encourage arriving passengers from overseas flights to discard, without penalty, any prohibited agricultural quarantine item that they may have unwittingly, or willfully, brought with them.

Your Committee on Agriculture and Environmental Protection concurs with the intent and purpose of H.C.R. No. 298, H.D. 1, and recommends its adoption.

Signed by all members of the Committee except Senators Ikeda and Reed.

SCRep. 2937 Agriculture and Environmental Protection on H.C.R. No. 301

The purpose of this Concurrent Resolution is to support the Territory of Guam in its quest for commonwealth status with the United States and to encourage the United States Government to allow the people of the Territory of Guam to determine their own political, economic, and social futures. The sponsor of this Concurrent Resolution indicated that a similar resolution was passed at the 1991 Annual Meeting of the Western Legislative Conference.

Your Committee has made technical amendments to this Concurrent Resolution for the purposes of clarity and style which do not affect its substance.

Your Committee on Agriculture and Environmental Protection concurs with the intent and purpose of H.C.R. No. 301, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 301, S.D. 1.

Signed by all members of the Committee except Senators Ikeda and Reed.

SCRep. 2938 Agriculture and Environmental Protection on H.C.R. No. 308

The purpose of this Concurrent Resolution is to acknowledge the significance of a Pacific Island planning conference, sponsored by the State, during which participants will prepare for the United Nations Conference on Environment and Development. This meeting will provide an opportunity for participants to share ideas on environmental issues unique to the Pacific, develop positions on those issues, and begin to formulate a consensus on the manner in which recommendations from the conference can be fulfilled.

The State has recognized, in the Ocean Resources Management Plan and the State General Plan, its responsibility for the stewardship of ocean-related resources. The community of Pacific Islands shares this diverse resource and it seems only prudent and wise that this larger community meet to discuss this obligation.

Your Committee on Agriculture and Environmental Protection concurs with the intent and purpose of H.C.R. No. 308, H.D. 1, and recommends its adoption.

Signed by all members of the Committee except Senators Ikeda and Reed.

SCRep. 2939 Agriculture and Environmental Protection on H.C.R. No. 354

The purpose of this Concurrent Resolution is to enable the continued transport of black oil between the Hawaiian Islands by urging the United States Coast Guard to amend its proposed regulations regarding financial responsibility requirements under the Oil Pollution Act of 1990.

Your Committee finds that the possible disruption of black oil transported to the outer islands will have adverse impacts on many important businesses, including the sugar industry, hospitals and electric utility companies. Your Committee also recognizes the importance of maintaining the integrity of the Pollution Act of 1990 in order to protect Hawaii's unique, fragile, and economically vital marine environment.

Your Committee on Agriculture and Environmental Protection concurs with the intent and purpose of H.C.R. No. 354, H.D. 1, and recommends its adoption.

Signed by all members of the Committee except Senators Ikeda and Reed.

SCRep. 2940 Agriculture and Environmental Protection on H.C.R. No. 363

The purpose of this measure is to respond to the concerns of the Waimanalo community regarding the water quality of Waimanalo Bay. Your Committee supports the need to protect this valuable resource by requesting the Director of the Department of Health to develop a plan to strengthen the water sampling program for Waimanalo Bay and to develop a citizen water monitoring program.

Your Committee on Agriculture and Environmental Protection concurs with the intent and purpose of H.C.R. No. 363, H.D. 1, and recommends its adoption.

Signed by all members of the Committee except Senators Ikeda and Reed.

SCRep. 2941 Agriculture and Environmental Protection on H.C.R. No. 421

The purpose of this Concurrent Resolution is to urge the Department of Land and Natural Resources to conduct a study assessing the impact and the possible regulation of the use of gill nets on Hawaii's fishery.

Your Committee on Agriculture and Environmental Protection concurs with the intent and purpose of H.C.R. No. 421, H.D. 1, and recommends its adoption.

Signed by all members of the Committee except Senators Ikeda and Reed.

SCRep. 2942 Agriculture and Environmental Protection on H.C.R. No. 422

The purpose of this Concurrent Resolution is to urge congressional support for the creation of a modern, up-to-date water quality research facility at the Oceanic Institute.

By establishing a state-of-the art water quality research facility at the Oceanic Institute, scientifically sound data can be secured and utilized not only in the field of aquaculture, but by State agencies, educational institutions and other interested parties. Recognizing the need to monitor water resources to safeguard public health, to effectively manage and protect the environment, and to ensure the success of Hawaii's aquaculture industry, your Committee believes that the development of a water quality lab at the Oceanic Institute could help achieve these goals.

Your Committee on Agriculture and Environmental Protection concurs with the intent and purpose of H.C.R. No. 422 and recommends its adoption.

Signed by all members of the Committee except Senators Ikeda and Reed.

SCRep. 2943 Agriculture and Environmental Protection on H.C.R. No. 424

The purpose of this Concurrent Resolution is to commend the government of Japan for its decision to support a total ban on driftnet fishing under a United Nations agreement.

Your Committee on Agriculture and Environmental Protection concurs with the intent and purpose of H.C.R. No. 424 and recommends its adoption.

Signed by all members of the Committee except Senators Ikeda and Reed.

SCRep. 2944 Planning, Land and Water Use Management on H.B. No. 2361

The purpose of this bill is to authorize the Board of Land and Natural Resources to waive restrictive covenants pertaining to all residential lots in a subdivision.

Waiver would be conditioned upon agreement of all the owners in the subdivision and payment to the Board of the difference between the fair market value of the property with and without the restricted use, as long as the waiver does not cause violation of any state or county zoning requirements. The authority granted by this measure shall not be construed to authorize the Board to waive a condition contained in an agreement of sale, deed, or patent that requires title to revert to the State upon change in use of the property or breach of the agreement.

Your Committee finds that this authority will assist the Board in carrying out the policy established in Part II of Chapter 171, Hawaii Revised Statutes, as it relates to restrictive covenants.

Your Committee on Planning, Land and Water Use Management is in accord with the intent and purpose of H.B. No. 2361, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2945 Planning, Land and Water Use Management on H.B. No. 3725

The purpose of this bill is to require the State and counties to give the original landowner first right to repurchase land taken by eminent domain that is no longer needed for the purpose for which it was condemned.

Repurchase will be at an amount equal to the compensation paid for acquisition. If the original landowner is deceased the heir's or assigns will be afforded first refusal. The State or county will provide written notice of the landowner's right of first refusal, whereupon the landowner will have sixty days to accept or reject the offer to reacquire. Failure to respond will constitute rejection. Upon acceptance, the landowner will have thirty days to repurchase the property. This bill will also apply to property acquired in anticipation of eminent domain proceedings or as a dedication or gift.

Your Committee finds that eminent domain is a powerful instrument against which the typical landowner is defenseless. Current practice is to allow original landowners to repurchase when the property no longer serves the public purpose, but at the current "fair market value," which can be several times the amount rendered for condemnation. In some instances, condemned property was never used but remained in the government's possession for several years before a decision was made to return it to private ownership. Your Committee does not believe that eminent domain and condemnation were ever intended to enable or facilitate government profit-making at the expense of private owners.

Your Committee on Planning, Land and Water Use Management is in accord with the intent and purpose of H.B. No. 3725 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 2946 Consumer Protection and Business Regulation on H.C.R. No. 65

The purpose of this Concurrent Resolution is to request the Legislative Reference Bureau to assess the need for regulatory controls on unaccredited degree granting and non-degree granting institutions established in the State of Hawaii.

Your Committee finds that the problem of regulating unaccredited institutions is not new to the Legislature. During the Regular Session of 1990, the Fifteenth Legislature enacted Act 226, Session Laws of Hawaii 1990, which attempted to clarify years of jurisdictional disputes between the Department of Education and the DCCA, as well as establish basic regulatory controls on these institutions by requiring all unaccredited institutions conducting operations in the State to register with the DCCA.

However, your Committee has received information that the consuming public may still be at risk from unaccredited degree granting institutions and proprietary schools. The DCCA representative pointed out that in recent months, the number of inquiries relating to unaccredited degree granting institutions in Hawaii have increased from approximately two per year to two per month. These inquiries have come from prospective students regarding the registration status of the school in question.

In light of this, your Committee believes that the study requested in this Concurrent Resolution would provide the Legislature with current information regarding this issue, as well as recommend ways of rectifying the problems associated with unaccredited degree granting and non-degree granting institutions.

Your Committee on Consumer Protection and Business Regulation concurs with the intent and purpose of H.C.R. No. 65, H.D. 1, and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Senators Chang and Tungpalan.

SCRep. 2947 Consumer Protection and Business Regulation on H.C.R. No. 240

The purpose of this Concurrent Resolution is to request the Department of Commerce and Consumer Affairs (DCCA) to:

- (1) Conduct a comprehensive statewide investigation of time share industries;
- (2) Provide proposed legislation to address these issues; and
- (3) Submit a report of the findings and recommendations to the Legislature prior to the submittal of a similar study currently being conducted by the Office of the Legislative Auditor.

Your Committee on Consumer Protection and Business Regulation concurs with the intent and purpose of H.C.R. No. 240, H.D. 1, and recommends its adoption.

Signed by all members of the Committee except Senators Chang and Tungpalan.

SCRep. 2948 Consumer Protection and Business Regulation on H.C.R. No. 241

The purpose of this Concurrent Resolution is to request the Insurance Commissioner to review other mechanisms for determining workers' compensation insurance premiums.

Your Committee hopes this measure will address an inequity that may exist in workers' compensation insurance premiums when a contractor who pays an employee the "going wage rate" pays a higher insurance premium than the contractor who pays an employee a lower wage rate, even though both employees perform the same type of work and both employees would be eligible for the same benefits.

Your Committee on Consumer Protection and Business Regulation concurs with the intent and purpose of H.C.R. No. 241, H.D. 1, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2949 Consumer Protection and Business Regulation on H.C.R. No. 254

The purpose of this Concurrent Resolution is to request the Attorney General of the State of Hawaii to render an opinion as to whether the State or its agency can act as a master policy holder under existing law without exposing the State or its agency, as the case may be, to any liability because of its position in connection with mandatory errors and omissions insurance for real estate brokers and salespeople.

Your Committee finds that the adoption of the measure is a necessary step in determining the feasibility of mandatory errors and omissions insurance for the real estate industry.

Your Committee on Consumer Protection and Business Regulation concurs with the intent and purpose of H.C.R. No. 254, H.D. 1, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2950 Consumer Protection and Business Regulation on H.C.R. No. 400

The purpose of this Concurrent Resolution is to propose that the Hawaii Real Estate Research and Education Center study the feasibility of enacting a mandatory seller disclosure law.

Your Committee finds that disclosure of material facts has been, and continues to be, one of the most important issues in real estate transactions due to the increasing complexity of real estate transactions, precedent-setting court cases, well-informed consumers, and the increasing number of items that are considered material facts. Although the real estate licensee has a duty to ascertain and disclose all material facts concerning every property for which the licensee accepts agency, the seller is often better informed about material facts concerning the property.

Approximately twenty states are considering mandatory written disclosures such as those considered by this Concurrent Resolution; California and Maine have already passed such legislation.

Your Committee on Consumer Protection and Business Regulation concurs with the intent and purpose of H.C.R. No. 400, H.D. 1, and recommends its adoption.

Signed by all members of the Committee except Senators Chang and Tungpalan.

SCRep. 2951 Consumer Protection and Business Regulation on H.C.R. No. 403

The purpose of this Concurrent Resolution is to request the Legislative Reference Bureau to conduct a comprehensive review of the commercial practices and regulation of out-of-state pharmacies.

Your Committee on Consumer Protection and Business Regulation concurs with the intent and purpose of H.C.R. No. 403 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Senators Chang and Tungpalan.

SCRep. 2952 Science, Technology and Economic Development on H.C.R. No. 314

The purpose of this Concurrent Resolution is to call on the Governor, through the Office of International Relations, to coordinate with various organizations of the State to support efforts to have Hawaii host the ninth round of multilateral trade negotiations under the General Agreement on Tariffs and Trade.

Your Committee finds that hosting the ninth round of the General Agreement on Tariffs and Trade negotiations would help to establish Hawaii as a business and trade center and would augment Hawaii's international reputation.

Your Committee on Science, Technology and Economic Development concurs with the intent and purpose of H.C.R. No. 314, H.D. 1, and recommends its adoption.

Signed by all members of the Committee except Senator Aki.

SCRep. 2953 Science, Technology and Economic Development on H.C.R. No. 358

The purpose of this Concurrent Resolution is to request the convening of a Telecommunications and Information Technology Advisory Council to develop short-range and long-range strategic plans for telecommunications and information technology policy for the State.

Your Committee finds that telecommunications and information technology are increasingly important in performing the day to day tasks of government and business. Consequently, departments within the State need to coordinate their information needs and activities to formulate an integrated, statewide telecommunications and information technology policy and implementation plan.

Your Committee has amended the bill by increasing the council membership from eleven to seventeen. The number of council members to be appointed from the legislature was decreased from four to two, and the Director of Business, Economic Development, and Tourism, the Executive Director of the High Technology Development corporation, and four representatives from the industry were added as members.

Your Committee has also amended the bill so that certified copies of the Concurrent Resolution will be transmitted to reflect the changes made to the council membership.

Your Committee on Science, Technology and Economic Development concurs with the intent and purpose of H.C.R. No. 358, H.D. 1, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 358, H.D. 1, S.D. 1.

Signed by all members of the Committee except Senator Aki.

SCRep. 2954 Agriculture and Environmental Protection on H.C.R. No. 252

The purpose of this Concurrent Resolution is to authorize the Governor, or his designee, to take all necessary actions to establish a Sister-State affiliation with the Province of Hainan, the thirty-first province of the People's Republic of China.

Your Committee received testimony in strong support of the measure from numerous persons and organizations.

In 1985, the City and County of Honolulu entered into a Sister-Island relationship with Hainan, which was then a part of Guangdong Province. Your Committee has amended the Concurrent Resolution by providing for a clear understanding of the relationships between Hawaii, Hainan, and Honolulu.

Your Committee has further amended the Concurrent Resolution by providing for involvement and participation by the Hawaii State Legislature, and parity between Hawaii's relationships with Hainan and other sister-states and provinces.

Your Committee on Agriculture and Environmental Protection concurs with the intent and purpose of H.C.R. No. 252, H.D. 1, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 252, H.D. 1, S.D. 1.

Signed by all members of the Committee.

SCRep. 2955 Agriculture and Environmental Protection on H.C.R. No. 280

The purpose of this Concurrent Resolution is to respectfully urge the government and business leaders of Japan and the United States of America to join in a concerted effort to support and accomplish the following, including, but not limited to:

- (1) Condemning and ceasing further "Japan-bashing" and "America-bashing";
- (2) Increasing awareness of hate crimes and discrimination;
- (3) Combatting stereotypes and promoting understanding of minority cultures;

- (4) Reviewing, enacting, and enforcing laws that protect all people from discrimination in any form, such as bias-related intimidation and violence; and
- (5) Entering into open, sincere negotiations, free of name-calling and stereotyping, to reach a more agreeable trade policy between the United States and Japan.

This Concurrent Resolution is intended to send to the governments of the United States and Japan a strong and unequivocal declaration that the mutual recriminations by respectable and mature officials of both nations must cease immediately and that measures be undertaken to discourage such repugnant behavior.

Testimony in favor of this Concurrent Resolution was received from the Honolulu Japanese Chamber of Commerce, the Japanese American Citizens League-Honolulu Chapter, the United Japanese Society of Hawaii, and the American Civil Liberties Union of Hawaii.

Your Committee has amended the Concurrent Resolution by deleting words, phrases, and paragraphs for brevity and style.

Your Committee has further amended the Concurrent Resolution by requesting a program in the State of Hawaii that will help to accomplish the purposes of the Concurrent Resolution.

Your Committee on Agriculture and Environmental Protection concurs with the intent and purpose of H.C.R. No. 280, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 280, S.D. 1.

Signed by all members of the Committee.

SCRep. 2956 Agriculture and Environmental Protection on H.C.R. No. 218

The purpose of this House Concurrent Resolution is to request the Department of Agriculture to determine the details for establishing a pesticide treatment notification system.

During the 1991 Legislative Session HCR 254, HD1, SD1, established a Roadside Spray Task Force to review state and county policies and procedures for roadside spraying and to report to the 1992 Legislature its findings and recommendations.

Your Committee finds that there is a need to extend the Task Force for another year.

Accordingly, your Committee has amended the title and contents of the concurrent resolution to reflect the continuation of the Roadside Spray Task Force. The task force shall continue to function in accordance with HCR 254, HD1, SD1, but will broaden its purview to include exploration of the recommendations made in the draft report and other related matters.

Your Committee believes that the continuation of the Task Force is in the best interest of the general public.

Your Committee on Agriculture and Environmental Protection concurs with the intent and purpose of H.C.R. No. 218, H.D. 1, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 218, H.D. 1, S.D. 1.

Signed by all members of the Committee.

LCRep. 2957 Executive Appointments on Gov. Msg. No. 341

Recommending that the Senate consent to the nomination of GAIL C. NAKATANI for 4th Judge of the Circuit Court of the First Circuit, for a term of ten years, in accordance with the provisions of Article VI, Section 3, of the Hawaii State Constitution.

Signed by all members of the Committee.

LCRep. 2958 Executive Appointments on Gov. Msg. No. 342

Recommending that the Senate consent to the nomination of PAULA A. NAKAYAMA for 8th Judge of the Circuit Court of the First Circuit, for a term of ten years, in accordance with the provisions of Article VI, Section 3, of the Hawaii State Constitution.

Signed by all members of the Committee.

LCRep. 2959 Executive Appointments on Gov. Msg. Nos. 271, 307, 308, 309, 310, 321, 325, 326, 329, 332, 333, 334, and 335

Recommending that the Senate advise and consent to the nominations of the following:

GERALD L. DE MELLO to the Western Interstate Commission for Higher Education, term to expire June 30, 1996 (Gov. Msg. No. 271);

CLAUDIO R. SUYAT (filling a vacancy) to the Hawaii Paroling Authority,* term to expire June 30, 1992 (Gov. Msg. No. 307);

CLAUDIO R. SUYAT (reappointment) to the Hawaii Paroling Authority, term to expire June 30, 1996 (Gov. Msg. No. 307);

GEORGE K. KAGEHIRO to the Central Oahu Subarea Health Planning Council, term to expire June 30, 1993 (Gov. Msg. No. 308);

JACOB Y.W. NG to the Central Oahu Subarea Health Planning Council, term to expire June 30, 1996 (Gov. Msg. No. 308);

ERNEST M.S. LOO, AILEEN F. SAITO and ORLANDO SORIANO to the State Highway Safety Council, terms to expire June 30, 1995 (Gov. Msg. No. 309);

JOAQUIN P. FREITAS, FRANCIS KANIAUPIO and HENRY E. ROSA to the State Highway Safety Council, terms to expire June 30, 1996 (Gov. Msg. No. 309);

TRUDY K. SENDA to the Land Use Commission, term to expire June 30, 1993 (Gov. Msg. No. 310);

ELTON S. WADA to the Land Use Commission, term to expire June 30, 1996 (Gov. Msg. No. 310);

KENNETH K. FUKUNAGA, HARRY M. NAKATA, JIM NICHOLSON, GERARD SAKAMOTO and HERBERT T. TATEISHI to the Environmental Council, terms to expire June 30, 1996 (Gov. Msg. No. 321);

ALEXANDER A.S. AKUNA, MONSIGNOR CHARLES A. KEKUMANO, MARIE A. MCDONALD, WARREN C.R. PERRY and PETER LIHOLIHO TRASK to the Hawaiian Home Lands Trust Individual Claims Review Panel, terms to expire December 30, 1995 (Gov. Msg. No. 325);

NANI GLADYS BRANDT and ROBERT MCFARLANE to the Hawaiian Homes Commission, terms to expire June 30, 1996 (Gov. Msg. No. 326);

HERBERT K. APAKA, JR., to the Board of Land and Natural Resources, term to expire June 30, 1996 (Gov. Msg. No. 329);

LARRY S. TANIMOTO to the Board of Regents, University of Hawaii, term to expire June 30, 1994 (Gov. Msg. No. 332);

JOSEPH FREDERIC BLANCO to the Board of Regents, University of Hawaii, term to expire June 30, 1996 (Gov. Msg. No. 332);

EDWARD Y. HIRATA, CLAY A. KAGAWA and FREDERICK LAVARIAS to the Stadium Authority, terms to expire June 30, 1996 (Gov. Msg. No. 333);

JIM DEMPSEY, MANUEL JUNIOR MONIZ and YOSHITO TAKAMINE to the Commission on Transportation, terms to expire June 30, 1996 (Gov. Msg. No. 334);

ALICE E. DEAN-DANIEL and PAULA HARRIS-WHITE to the Commission on the Status of Women, terms to expire June 30, 1993 (Gov. Msg. No. 335); and

CYNTHIA F. LEONG and LISA-ANN NAKANO to the Commission on the Status of Women, terms to expire June 30, 1994 (Gov. Msg. No. 335).

Signed by all members of the Committee.

SCRep. 2960 Judiciary on H.C.R. No. 67

The purpose of this concurrent resolution is to urge the Child Support Enforcement Agency (CSEA) to develop and implement mechanisms to increase efficiency and timeliness in the child support payments collection process.

Your Committee finds that in the past the CSEA has been severely deficient in its operations. Although the CSEA has already begun to work at resolving these problems, this measure will further encourage the CSEA to develop and implement additional mechanisms to improve the process as well as monitor the CSEA's progress.

Your Committee on Judiciary concurs with the intent and purpose of H.C.R. No. 67 and recommends its adoption.

Signed by all members of the Committee except Senator Ikeda.

SCRep. 2961 Judiciary on H.C.R. No. 172

The purpose of this concurrent resolution is to request the Judicial Council of Hawaii (Council) to establish a committee to review and evaluate the adequacy of various mandatory penalty or sentencing structures for crimes. It also requires the Council to appoint members to the committee and that membership include representation from various organizations and citizens from the community.

Your Committee finds that a review of mandatory penalty or sentencing structures would be helpful in evaluating the mandatory penalties and their placement in the overall sentencing scheme of the penal code.

Your Committee on Judiciary concurs with the intent and purpose of H.C.R. No. 172, H.D. 1, and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Senator Ikeda.

SCRep. 2962 Judiciary on H.C.R. No. 299

The purpose of this concurrent resolution is to request that the Lieutenant Governor establish a task force to examine and make recommendations regarding:

- (1) Whether the responsibilities of overseeing elections should be transferred from the Office of the Lieutenant Governor to a non-partisan commission; and
- (2) Whether the duties associated with Secretaries of State should be created and attached to the Office of the Lieutenant Governor.

Your committee finds that the passage of this measure will help determine and eliminate any potential conflicts of interest that may arise from having the office of the Lieutenant Governor oversee the election process, as well as examine and determine other areas of duties in which the Lieutenant Governor can effectively and meaningfully serve the public.

Your Committee on Judiciary concurs with the intent and purpose of H.C.R. No. 299, and recommends its adoption.

Signed by all members of the Committee except Senator Ikeda.

SCRep. 2963 Judiciary on H.C.R. No. 326

The purpose of this concurrent resolution is to request a study on the increase in repetitive child abuse cases and an evaluation of other roles of the medical director and multi-disciplinary team in the diagnosis and treatment of child abuse.

Your Committee finds that child abuse and neglect are serious problems in our society that have immediate and long-term ramifications. This measure proposes a logical and systematic approach to addressing these critical issues.

Your Committee on Judiciary concurs with the intent and purpose of H.C.R. No. 326, H.D. 1, and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Senator Ikeda.

SCRep. 2964 Transportation and Intergovernmental Relations on H.C.R. No. 230

The purpose of this Concurrent Resolution is to request that the Department of Land and Natural Resources, in coordination with the General Services Administration, identify lands that would be suitable for the relocation of the Federal Aviation Administration (FAA) traffic monitoring facility at Diamond Head.

Your Committee finds that the proposed expansion of the FAA facility in the Diamond Head Crater is incompatible with the implementation of the Board of Land and Natural Resources' plan to develop a semi-wilderness recreational park within the crater. It would therefore be appropriate and timely to seek alternative sites to relocate the FAA facility.

Your Committee on Transportation and Intergovernmental Relations concurs with the intent and purpose of H.C.R. No. 230, H.D. 1, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2965 (Joint) Education and Employment and Public Institutions on H.C.R. No. 93

The purpose of this Concurrent Resolution is to request the Department of Education, in conjunction with the Board of Education, the Hawaii State Teachers Association, the Department of Personnel Services, and the University of Hawaii to cooperatively develop and implement a career ladder plan for teachers and establish a pilot project to test implementation of the plan.

Your Committees find that the quality of education provided by the State's public school system is being negatively affected by a growing rate of teacher attrition from the classroom to non-instructional, administrative positions. A contributing factor to this trend is the perception that teacher compensation is not commensurate with the demands of the career, or with the performance of the individual. Thus, your Committees believe that a career ladder plan will be an appropriate incentive to keep educators in the classroom, promote excellence in teaching, and motivate more individuals to pursue the teaching profession.

Your Committees on Education and Employment and Public Institutions concur with the intent and purpose of H.C.R. No. 93, H.D. 1, and recommend its adoption.

Signed by all members of the Committees except Senator Fernandes Salling.

SCRep. 2966 Education on H.C.R. No. 35

The purpose of this Concurrent Resolution is to request that the new gymnasium planned for Kauai High and Intermediate School be named in honor of the late United States Senator Spark M. Matsunaga and that the Department of

Accounting and General Services allocate five percent of the construction costs to the building of an entryway to the gymnasium with a plaque or portrait in his honor.

Your Committee finds that this tribute to the late Senator Spark Matsunaga is especially appropriate for "a boy from Kauai who went to the United States Senate."

Your Committee on Education concurs with the intent and purpose of H.C.R. No. 35 and recommends its adoption.

Signed by all members of the Committee except Senator Fernandes Salling.

SCRep. 2967 Education on H.C.R. No. 201

The purpose of this Concurrent Resolution is to request the Legislative Reference Bureau (LRB) to conduct a study on the salary and benefits package of public school principals and vice principals.

Your Committee supports a review of the salary and benefits package of public school principals and vice principals particularly in light of efforts currently under way in the DOE to assign new positions directly to the schools through Project Ke Au Hou, to empower teachers, parents, and other role groups with greater decision-making authority through school/community-based management, and to enrich student learning with before- and after-school programs and services.

Your Committee on Education concurs with the intent and purpose of H.C.R. No. 201, H.D. 1, and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Senator Fernandes Salling.

SCRep. 2968 Education on H.C.R. No. 282

The purpose of this Concurrent Resolution is to request the Department of Education (DOE) to utilize a comprehensive user-oriented approach in the development, testing, and installation of the Financial Management System (FMS) and the Student Information System (SIS).

Your Committee finds that the DOE has started working to make both systems fully operational. Your Committee senses that the early system and user problems have abated, yet recognizes that a better understanding of these problems will accelerate progress. Your Committee further finds that a report providing the status on steps taken to implement recommendations made by the Auditor to improve the FMS and SIS, the status of any modification to improve the FMS and SIS, and the status of implementing a comprehensive user support and evaluation system relating to the FMS and SIS will be useful.

Your Committee on Education concurs with the intent and purpose of H.C.R. No. 282, H.D. 1, and recommends its adoption.

Signed by all members of the Committee except Senator Fernandes Salling.

SCRep. 2969 Education on H.C.R. No. 361

The purpose of this Concurrent Resolution is to request the Department of Education to review its policies and practices and report on its current efforts and recommendations to improve the delivery of programs and services to gifted and talented Native Hawaiian students and other children from under-represented ethnic groups.

Your Committee recognizes the value of programs and services for gifted and talented students and believes that these programs and services should be provided to all students, regardless of their ethnicity. As such, any policy or practice that separates students strictly along ethnic lines runs contrary to the Legislature's philosophy of providing educational opportunities equally to all students. However, your Committee further believes that whenever any ethnic group is grossly under-represented in any educational excellence program, a vigorous effort must be made to understand why this condition exists and how it might be corrected.

Your Committee on Education concurs with the intent and purpose of H.C.R. No. 361, H.D. 1, and recommends its adoption.

Signed by all members of the Committee except Senator Fernandes Salling.

SCRep. 2970 Education on H.C.R. No. 367

The purpose of this Concurrent Resolution is to request the University of Hawaii's Sea Grant College Program, in cooperation with the Department of Health, to establish an ultraviolet radiation monitoring and public educational program which would inform both residents and visitors about the harmful effects of ozone depletion and the precautions they can take when exposed to the sun.

Your Committee finds that serious health conditions result from over-exposure to the sun, and an educational program for residents and visitors will assist in disseminating information about adverse effects from such overexposure.

Your Committee on Education concurs with the intent and purpose of H.C.R. No. 367, H.D. 1, and recommends its adoption.

Signed by all members of the Committee except Senator Fernandes Salling.

SCRep. 2971 Education on H.C.R. No. 393

The purpose of this Concurrent Resolution is to request the Senior Vice President for Academic Affairs at the University of Hawaii to organize a task force to study the feasibility of establishing a multi-disciplinary institute of housing at the University.

The task force will include the Director of the Environmental Center and the Deans of the the School of Architecture and the Colleges of Engineering, Social Sciences, and Business Administration, as well as representatives from private and public sector groups exhibiting an interest in housing and community development. The study will include a survey of other states that have multi-disciplinary housing institutes, and the task force will report back to the 1993 Legislature.

Your Committee finds that a multi-disciplinary housing institute could serve as a forum and catalyst for academic and community involvement in critical aspects of housing and community development in the State.

Your Committee on Education concurs with the intent and purpose of H.C.R. No. 393, H.D. 1, and recommends its adoption.

Signed by all members of the Committee except Senator Fernandes Salling.

SCRep. 2972 Education on H.C.R. No. 420

The purpose of this Concurrent Resolution is to request the Department of Education to prepare a computer and information technology master plan to be used as a budgetary guideline in the purchase, installation, distribution, repair, and replacement of software and computer equipment bought or leased by schools.

The vital importance of preparing Hawaii's students to meet the personal and work challenges of a highly demanding, information-age society is well recognized by all sectors of the community. In light of these challenges, your Committee supports efforts to provide students with proper curricula, equipment, and resources to become proficient in computer literacy skills, concepts, and knowledge. A critical component of these efforts is the systematic preparation and prioritization of budget requests relating to computer hardware and software.

Your Committee on Education concurs with the intent and purpose of H.C.R. No. 420 and recommends its adoption.

Signed by all members of the Committee except Senator Fernandes Salling.

SCRep. 2973 Housing and Hawaiian Programs on H.C.R. No. 78

The purpose of this concurrent resolution is to request the counties to consider permitting and encouraging residents of county housing projects to establish and operate child care facilities within their private residences.

Your Committee finds that permitting the establishment and operation of child care centers in the private homes of county housing projects would serve to fill a much needed service for working parents of the community.

Testimony in support of this bill was received from the City and County of Honolulu Department of Housing and Community Development, and the Office of Children and Youth.

Your Committee has amended this resolution by requiring the counties to meet the criteria established by Section 517 of the National Affordable Housing Act and Section 222(g) of the Housing and Urban-Rural Recovery Act of 1983.

Your Committee on Housing and Hawaiian Programs concurs with the intent and purpose of H.C.R. No. 78, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 78, S.D. 1.

Signed by all members of the Committee except Senator Fernandes Salling.

SCRep. 2974 Housing and Hawaiian Programs on H.C.R. No. 219

The purpose of this Concurrent Resolution is to request that the Hawaiian Homes Commission and the National Park Service conduct their lease rent negotiations at the Kalaupapa settlement on Molokai and resolve their differences in such a way as to preserve the dignity and integrity of the residents of Kalaupapa.

Your Committee finds that the dispute over lease rents between the Hawaiian Homes Commission and the National Park Service is having an adverse effect on the residents of Kalaupapa. Your Committee believes that the residents of Kalaupapa have experienced enough hardship and discrimination and deserve to see an expeditious resolution to the dispute in which they find themselves unfairly caught.

Your Committee on Housing and Hawaiian Programs concurs with the intent and purpose of H.C.R. No. 219, H.D. 1, and recommends its adoption.

Signed by all members of the Committee except Senator Fernandes Salling.

SCRep. 2975 Housing and Hawaiian Programs on H.C.R. No. 263

The purpose of this Concurrent Resolution is to urge that minimal interim development standards be established and the possibility of exemptions and waivers from county and federal building codes be explored to encourage early settlement of Hawaiian home lands house lots.

Your Committee finds that too many native Hawaiians encounter too many roadblocks as they seek homesites on Hawaiian home lands.

Your Committee on Housing and Hawaiian Programs concurs with the intent and purpose of H.C.R. No. 263, H.D. 1, and recommends its adoption.

Signed by all members of the Committee except Senator Fernandes Salling.

SCRep. 2976 Housing and Hawaiian Programs on H.C.R. No. 269

The purpose of this Concurrent Resolution is to request that the Office of Hawaiian Affairs, in collaboration with the Department of Public Safety, conduct an assessment of the number of native Hawaiians in the State's correctional system, as well as an assessment of correctional programs and services targeting native Hawaiians.

Your Committee finds that there may be a need to develop culturally sensitive correctional programs and services for native Hawaiians as it appears that they are overrepresented in the State's correctional system. Before such programs are developed, information must be accumulated to determine and assess current programs and services.

Your Committee on Housing and Hawaiian Programs concurs with the intent and purpose of H.C.R. No. 269, H.D. 1, and recommends its adoption.

Signed by all members of the Committee except Senator Fernandes Salling.

SCRep. 2977 Housing and Hawaiian Programs on H.C.R. No. 300

The purpose of this Concurrent Resolution is to recognize and formally apologize to the Hawaiian people for breaches of trust responsibility.

Your Committee understands that no simple apology by the State can rectify the injustices which have been perpetrated against Hawaii's indigenous people. However, in conjunction with recent and ongoing action by the State to explore the issue of sovereignty and compensation for beneficiaries of the Hawaiian Home Lands Trust for past abuse, this formal recognition and apology represents an important statement on behalf of all of Hawaii's people.

Your Committee on Housing and Hawaiian Programs concurs with the intent and purpose of H.C.R. No. 300, H.D. 1, and recommends its adoption.

Signed by all members of the Committee except Senator Fernandes Salling.

LCRep. 2978 Executive Appointments on Gov. Msg. No. 330

Recommending that the Senate advise and consent to the nomination of SIDNEY W. "BILL" COOK to the Board of Directors, Natural Energy Laboratory of Hawaii Authority, term to expire June 30, 1995.

Signed by all members of the Committee except Senator Reed.

LCRep. 2979 Executive Appointments on Gov. Msg. No. 310

Recommending that the Senate advise and consent to the nomination of ALLEN K. HOE to the Land Use Commission, term to expire June 30, 1996.

Signed by all members of the Committee except Senator Reed.

SCRep. 2980 Housing and Hawaiian Programs on H.C.R. No. 260

The purpose of this Concurrent Resolution is to adopt and support the recommendations of the Hui 'Imi Task Force concerning the coordination of services to Hawaiians in eight service categories. The Task Force was established for the purpose of making these recommendations by Senate Concurrent Resolution No. 106-91, S.D. 1.

Your Committee on Housing and Hawaiian Programs concurs with the intent and purpose of H.C.R. No. 260 and recommends its adoption.

Signed by all members of the Committee except Senator Fernandes Salling.

SCRep. 2981 Housing and Hawaiian Programs on H.C.R. No. 302

The purpose of this Concurrent Resolution is to request the establishment of an ad hoc panel to examine issues and formulate strategies for obtaining federal entitlements for native Hawaiians.

Your Committee finds that as the indigenous people of Hawaii, Hawaiians are essentially native Americans. Possibly because Hawaiians have not been officially classified as native Americans, they have been denied benefits available to other indigenous people who have been classified as native Americans. Your Committee finds that it is imperative that action be taken to enable Hawaiians to receive federal entitlements and to determine whether sovereignty for Hawaiians or classification as native Americans would enable Hawaiians to receive entitlements.

Your Committee on Housing and Hawaiian Programs concurs with the intent and purpose of H.C.R. No. 302, H.D. 1, and recommends its adoption.

Signed by all members of the Committee except Senator Fernandes Salling.

SCRep. 2982 Tourism and Recreation on H.C.R. No. 114

The purpose of this Concurrent Resolution is to request the organizers of the Aloha Festivals to consider enlarging the scope and size of the Aloha Festivals floral parade.

Your Committee finds that the Aloha Festivals floral parade is rated third nationally and that local and national television coverage serves to promote Hawaii as an attractive visitor destination.

Your Committee on Tourism and Recreation concurs with the intent and purpose of H.C.R. No. 114 and recommends its adoption.

Signed by all members of the Committee except Senator Fernandes Salling.

SCRep. 2983 Tourism and Recreation on H.C.R. No. 244

The purpose of this Concurrent Resolution is to support the relocation of the Secretariat of the Pacific Asia Travel Association to its original home in Hawaii.

Your Committee finds that the relocation of the Pacific Asia Travel Association (PATA) to Hawaii would help to develop Hawaii as a business and meeting center, providing more stability to the state's economy by reducing dependence on pleasure travelers.

Your Committee further finds that PATA will be strongly considering relocation within the next year and that it must decide whether to exercise an option to extend the existing lease on its office space by the summer of 1993. Your Committee believes that the 1993 PATA annual conference in Honolulu offers a fitting occasion for the return of PATA.

Your Committee on Tourism and Recreation concurs with the intent and purpose of H.C.R. No. 244 and recommends its adoption.

Signed by all members of the Committee except Senator Fernandes Salling.

SCRep. 2984 Tourism and Recreation on H.C.R. No. 378

The purpose of this Concurrent Resolution is to request that the Department of Business, Economic Development, and Tourism, in consultation with the Hawaii Visitors Bureau, study alternative marketing strategies and incentives for the promotion of intra-state travel by Hawaii residents.

Your Committee finds that the volatile nature of the overseas pleasure visitor market necessitates the opening or expansion of alternative markets to fill in the gaps during slow periods.

Your Committee on Tourism and Recreation concurs with the intent and purpose of H.C.R. No. 378, H.D. 1, and recommends its adoption.

Signed by all members of the Committee except Senator Fernandes Salling.

SCRep. 2985 Education on H.C.R. No. 359

The purpose of this Concurrent Resolution is to request the Department of Education (DOE) to consider rewarding schools that take the initiative to implement innovative educational programs by ensuring that any funds allocated for the statewide introduction of such programs include a portion that will be reserved expressly for those schools that have initiated the programs.

Your Committee believes that this Concurrent Resolution will boost the spirit of innovation at the school site, encourage collaboration among members of the school/community-based management councils, and heighten the sharing of new ideas and programs among schools.

Your Committee on Education concurs with the intent and purpose of H.C.R. No. 359, H.D. 1, and recommends its adoption.

Signed by all members of the Committee except Senators Tungpalan, Fernandes Salling, Kobayashi, B., and Reed.

SCRep. 2986 Transportation and Intergovernmental Relations on S.R. No. 117

The purpose of this Concurrent Resolution is to request that the Legislative Reference Bureau, in conjunction with the City and County of Honolulu, identify problems posed by the administration of Part III of Chapter 445, Hawaii Revised Statutes, particularly as it applies to residential rentals for three or more unrelated persons.

Your Committee finds that the applicability of Part III of Chapter 445, Hawaii Revised Statutes, needs clarification as to residential rentals and as to group homes for the disabled.

Your Committee on Transportation and Intergovernmental Relations concurs with the intent and purpose of S.R. No. 117, S.D. 1, and recommends its adoption.

Signed by all members of the Committee except Senator Aki.

SCRep. 2987 Ways and Means on H.C.R. No. 72

The purpose of this concurrent resolution is to request the legislative auditor to conduct a study of the fiscal relationship between Hawaii's legislative and executive branches. The concurrent resolution requests that a report of the auditor's findings and recommendations be submitted prior to the convening of the 1993 legislative session.

In testimony presented to your Committee, the director of finance noted that a periodic review of the budget system as a whole would be productive. Your Committee agrees with that point and adds that a comprehensive study is needed to clarify the fiscal roles of the two branches.

Your Committee on Ways and Means concurs with the intent and purpose of H.C.R. No. 72 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2988 Ways and Means on H.C.R. No. 187

The purpose of this concurrent resolution is to request the legislative reference bureau to study the current capital improvement project implementation process.

Specifically, this concurrent resolution requests that the study include, but not be limited to:

- (1) The identification of problems that affect the orderly and timely implementation of projects by the user agencies;
- (2) The identification of problems and delays caused by the permitting process; and
- (3) The identification of problems that adversely affect the orderly and timely completion of capital improvement projects.

Your Committee finds that because of the importance that government construction plays in implementing state policy, it is appropriate that the State review the adequacy of the existing capital improvement project implementation process and determine whether or not the current system represents the most efficient, effective, and prudent way by which capital improvement projects should be implemented.

Your Committee on Ways and Means concurs with the intent and purpose of H.C.R. No. 187, H.D. 1, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2989 (Joint) Housing and Hawaiian Programs and Education on H.C.R. No. 288

The purpose of this Concurrent Resolution is to request that the Hawaii Housing Authority work with the Department of Education and the Department of Accounting and General Services, in consultation with the Hawaii State Teachers Association, to address teacher concerns regarding teacher housing.

Your Committees find that the teacher shortage in Hawaii is closely tied to the lack of affordable housing.

Your Committees on Housing and Hawaiian Programs and Education concur with the intent and purpose of H.C.R. No. 288, H.D. 1, and recommend its adoption.

Signed by all members of the Committees.

SCRep. 2990 Health and Human Services on H.C.R. No. 3

The purpose of this Concurrent Resolution is to request the Departments of Health and Human Services to review their inspection policies and procedures of adult residential care home operators.

Your Committee agrees that the Department should consider scheduling annual inspections for a specific day and reasonable hours, renaming deficiency reports to a more appropriate title, and changing the contents of the reports to note the home care operators' strengths.

Your Committee on Health and Human Services concurs with the intent and purpose of H.C.R. No. 3 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2991 Health and Human Services on H.C.R. No. 10

The purpose of this Concurrent Resolution is to request the Departments of Health and Human Services to incorporate an adult residential care home operators' "Providers' Bill of Rights" in their departmental rules.

Your Committee finds that ARCH providers care for frail elders and other persons with disabilities, and their role in the health care system will be enhanced through the adoption of the "Providers' Bill of Rights."

Your Committee on Health and Human Services concurs with the intent and purpose of H.C.R. No. 10, H.D. 1, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2992 Health and Human Services on H.C.R. No. 30

The purpose of this Concurrent Resolution is to request the Department of Health to develop a plan to permit the utilization of nurses and nursing services in adult residential care homes.

Your Committee recognizes the lack of intermediate care facilities in Hawaii and increased costs to patients held in acute care settings waiting for openings in intermediate care facilities. Your Committee finds that a plan which will assist in providing skilled nursing care in community-based settings is appropriate and timely.

Your Committee on Health and Human Services concurs with the intent and purpose of H.C.R. No. 30, H.D. 1, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2993 Health and Human Services on H.C.R. No. 68

The purpose of this Concurrent Resolution is to request that the Legislative Reference Bureau study the various support and assistance services offered in Hawaii to children with cancer and their families and identify and make recommendations to eliminate gaps in service.

Your Committee finds that children with cancer present special challenges which require a multimodal demand of services beyond the standard therapy coordination of surgeons, oncologist, and neonatologists.

Your Committee on Health and Human Services concurs with the intent and purpose of H.C.R. No. 68, H.D. 2, and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 2994 Health and Human Services on H.C.R. No. 167

The purpose of this Concurrent Resolution is to develop a collaborative plan on how aviation resources can be better utilized for emergency aeromedical evacuation support services statewide.

Your Committee finds that the development of such a plan would greatly enhance medical response and availability throughout the State.

Your Committee on Health and Human Services concurs with the intent and purpose of H.C.R. No. 167, H.D. 1, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2995 Health and Human Services on H.C.R. No. 173

The purpose of this Concurrent Resolution is to request that the Legislative Reference Bureau conduct a study to examine the current and future needs of quadriplegics in Hawaii.

Your Committee finds that the basic needs of quadriplegics must be met before independence can be attained through work and other activities.

Your Committee on Health and Human Services concurs with the intent and purpose of H.C.R. No. 173 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 2996 Health and Human Services on H.C.R. No. 190

The purpose of this Concurrent Resolution is to request the Department of Health in collaboration with the Department of Human Services and the Kalaupapa Patients Advisory Council to develop a long-range plan for the comprehensive care of patients with Hansen's Disease.

Your Committee recognizes that the aging patient population at Kalaupapa and Hale Mohalu dictates that necessary changes be made in the type of care and delivery of services currently provided at these facilities.

Your Committee on Health and Human Services concurs with the intent and purpose of H.C.R. No. 190, H.D. 1, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2997 Health and Human Services on H.C.R. No. 295

The purpose of this concurrent resolution is to request various State agencies to participate in the evaluation, determination, and selection of an optimal site for a multipurpose center for the North Shore on Oahu.

Your Committee recognizes the need for the multipurpose center and believes that in the proposed selection process, serious consideration should be given not only to the Waialua Courthouse site, but the Waialua Community Association Building site as well, since preliminary discussions on the feasibility of utilizing these sites are in progress.

Additionally, in selecting the site and determining site needs, your Committee supports the importance of receiving community input, assessing community needs, and collaborating with pertinent service provider agencies, including the Departments of Human Services, Health, and Education.

Your Committee on Health and Human Services concurs with the intent and purpose of H.C.R. No. 295, H.D. 1, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2998 Health and Human Services on H.C.R. No. 303

The purpose of this Concurrent Resolution is to request the deployment of adequate ambulance service for the Waianae Coast, other rural areas of Oahu, and the islands of Maui, Hawaii, Kauai, and Molokai.

Your Committee finds that adequate ambulance service can provide important life-saving technology in emergency situations. Your Committee further finds that adequate ambulance service is an important component of our health care system which should be available to all residents.

Your Committee on Health and Human Services concurs with the intent and purpose of H.C.R. No. 303, H.D. 1, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 2999 Health and Human Services on H.C.R. No. 306

The purpose of this Concurrent Resolution is to request Hawaii Community College to provide nursing education and training to emergency medical technicians.

Your Committee finds that Hawaii Community College intends to modify its existing nursing curriculum this Summer by creating a separate, shortened licensed practical nurse (LPN) training program and by reallocating the resources to do so. Your Committee is also aware that the Chancellor of Hawaii Community College indicated that additional resources will be needed to deliver the modified curriculum requested by this Concurrent Resolution.

Your Committee on Health and Human Services concurs with the intent and purpose of H.C.R. No. 306, H.D. 1, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 3000 Health and Human Services on H.C.R. No. 316

The purpose of this Concurrent Resolution is to request the State Health Planning and Development Agency (SHPDA) to conduct a comprehensive review of home health care services provided on the island of Hawaii.

Your Committee finds that despite the recent efforts of West Hawaii Home Health Services to increase home health care service delivery, the demand for services greatly exceeds the supply.

Your Committee further finds that this Concurrent Resolution supports the Legislature's intent of providing increased access to health care services for Hawaii's medically underserved community.

Your Committee on Health and Human Services concurs with the intent and purpose of H.C.R. No. 316, H.D. 1, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 3001 Health and Human Services on H.C.R. No. 333

The purpose of this Concurrent Resolution is to request that the Legislative Auditor conduct a study on the current contract policies and administrative processes of the Department of Health regarding the provision of services to persons with developmental disabilities.

Your Committee finds that there appears to be great disparity in the levels at which private services providers are funded for providing services to persons with disabilities.

Your Committee on Health and Human Services concurs with the intent and purpose of H.C.R. No. 333, H.D. 1, and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 3002 Health and Human Services on H.C.R. No. 386

The purpose of this Concurrent Resolution is to request the Child Welfare Services Advisory Committee of the Department of Human Services to work towards the establishment of an interagency child death review system.

Your Committee finds that eighteen states now have child death review committees. Reviews of child deaths in California and Oregon have resulted in an increase in criminal prosecution and better coordination of protective services for surviving siblings. After five years of studying child death and serious reabuse cases, the Child Welfare Advisory Committee cites the lack of coordination among the agencies involved as the foremost problem in the child protection and advocacy system.

Your Committee recognizes that child protection and advocacy services are the responsibility of all entities dealing with these issues. Coordination and cooperation among health, human services, education, and law enforcement communities are necessary in order to successfully identify, prosecute, and prevent child abuse.

Your Committee on Health and Human Services concurs with the intent and purpose of H.C.R. No. 386, H.D. 1, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 3003 Health and Human Services on H.C.R. No. 416

The purpose of this Concurrent Resolution is to request the State Planning Council on Developmental Disabilities to conduct a study regarding staffing, decreasing population, and the cost-effectiveness of the operation of the Waimano Training School and Hospital.

Your Committee finds that the Department is presently attempting to maximize its resources for persons with developmental disabilities and to maintain quality of care at Waimano Home. Your Committee further finds that the Department would benefit from a study which could provide needed guidance on how best to proceed with the downsizing of the institution.

Your Committee on Health and Human Services concurs with the intent and purpose of H.C.R. No. 416, H.D. 1, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 3004 Health and Human Services on H.C.R. No. 423

The purpose of this Concurrent Resolution is to request that the Department of Health (DOH) lower the established maximum acceptable internal air temperature of mechanical refrigeration cases displaying or storing fresh fish.

Your Committee finds that lowering the established refrigeration temperature for the storage and display of fresh fish will enhance the safety and quality of the commodity.

Your Committee on Health and Human Services concurs with the intent and purpose of H.C.R. No. 423, H.D. 1, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 3005 Health and Human Services on H.C.R. No. 433

The purpose of this Concurrent Resolution is to request that the Legislative Auditor assess the coordination of mental health services for emotionally handicapped children and adolescents in Hawaii's public schools between the Department of Health and the Department of Education per their Memorandum of Agreement.

Your Committee finds that even with a Memorandum of Agreement in effect to provide a continuum of appropriate mental health services to children and adolescents in the State, emotionally handicapped children continue to fall through the cracks or appear to be inadequately served.

Your Committee on Health and Human Services concurs with the intent and purpose of H.C.R. No. 433, H.D. 2, and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 3006 Health and Human Services on H.C.R. No. 434

The purpose of this Concurrent Resolution is to request the Department of Health to develop a plan for the implementation of its Principles of Care for emotionally handicapped children and adolescents.

Your Committee finds that serious inadequacies exist in current programs for serving emotionally handicapped children and adolescents. Your Committee further finds that the Principles of Care were developed in Hawaii by individuals knowledgeable of programs serving emotionally handicapped children and adolescents, and service providers should be working diligently to adhere to these principles.

Your Committee on Health and Human Services concurs with the intent and purpose of H.C.R. No. 434, H.D. 1, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 3007 Planning, Land and Water Use Management on S.R. No. 175

The purpose of this Resolution is to request the State and Hawaii County to develop and implement a plan to protect the open nature of the North Kohala Coast.

The Resolution further requests the State and County to discourage subdivision and building in the area until the plan is implemented and the Land Use Commission to restrict development of the entire North Kohala Coast to a minimum of five hundred feet from the shoreline.

The Office of State Planning would assist in developing the plan.

Your Committee finds that the North Kohala Coast, which is still largely undeveloped, is one of Hawaii's most scenic districts and of historic significance. Your Committee further finds that achieving a satisfactory and appropriate economic future for West Hawaii may depend on maintenance of natural and scenic open areas. The plan contemplated by this Resolution will ensure proper stewardship of the area.

Your Committee has amended this Resolution by deleting the requests relating to inhibition of subdivision and development and categorical setbacks from the shoreline.

Your Committee on Planning, Land and Water Use Management concurs with the intent and purpose of S.R. No. 175, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 175, S.D. 1.

Signed by all members of the Committee.

SCRep. 3008 Planning, Land and Water Use Management on H.C.R. No. 38

The purpose of this Concurrent Resolution is to extend by one year the deadline by which the Board of Land and Natural Resources and the Department of Transportation must lease the 300 acres of submerged and tidal lands in Keehi Lagoon (the Triangle) to a private developer.

The original authorization to lease the Triangle for recreational, educational, research, and commercial/light industry purposes is due to expire on July 1, 1993; however, obtaining permits and approvals have been so time consuming that no developer is at this point willing to commit to the project.

Your Committee finds that the Board and the Department are making good faith efforts to prepare for the lease and that they should be allowed sufficient time to accomplish this task in furtherance of Honolulu waterfront redevelopment objectives.

Your Committee on Planning, Land and Water Use Management concurs with the intent and purpose of H.C.R. No. 38 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 3009 Planning, Land and Water Use Management on H.C.R. No. 224

The purpose of this Concurrent Resolution is to request the Governor to report on all idle lands acquired by the State or counties by condemnation since 1959 to enable return to the original owners under equitable terms.

Lands condemned for a public purpose are not always used by the government, or fall out of use with the passage of time. Since these properties were acquired through eminent domain against which the private landowner was powerless, it is appropriate for the Legislature to intervene and arrange for reversion of those properties that did not or no longer serve the public purpose.

Your Committee on Planning, Land and Water Use Management concurs with the intent and purpose of H.C.R. No. 224, H.D. 1, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 3010 Planning, Land and Water Use Management on H.C.R. No. 273

The purpose of this Concurrent Resolution is to request the Chairperson of the Board of Land and Natural Resources and four gubernatorial appointees to develop a comprehensive plan to mitigate the effects of flooding on Oahu's North Shore.

The North Shore Flood Control Task Force would submit its plan and recommended legislation prior to the 1993 Regular Session and be dissolved one year thereafter.

Your Committee finds that a comprehensive plan of the kind contemplated by this Concurrent Resolution will help mitigate the devastation and financial losses incurred by North Shore residents during the flood season.

Your Committee has amended this Concurrent Resolution by making two technical changes that have no substantive effect.

Your Committee on Planning, Land and Water Use Management concurs with the intent and purpose of H.C.R. No. 273, H.D. 1, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 273, H.D. 1, S.D. 1.

Signed by all members of the Committee.

SCRep. 3011 Planning, Land and Water Use Management on H.C.R. No. 276

The purpose of this Concurrent Resolution is to request the Department of Land and Natural Resources to develop a master flood control plan for Kahuku in time for presentation to the 1994 Legislature.

The Department would be assisted by the Department of Transportation, the Department of Public Works, City and County of Honolulu, the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service, the U.S. Department of Agriculture, and representatives of the private sector.

Your Committee finds that a master plan of the kind contemplated by this Concurrent Resolution will help to mitigate the devastation and huge financial losses incurred by Kahuku and environs during the flood season.

Your Committee on Planning, Land and Water Use Management concurs with the intent and purpose of H.C.R. No. 276, H.D. 1, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 3012 Planning, Land and Water Use Management on H.C.R. No. 292

The purpose of this Concurrent Resolution is to request the Department of Land and Natural Resources and Hawaii County to continue facilitating discussion among parties interested in preserving the integrity of the Kohala and Kona watersheds and natural resources.

The Department will submit a report of the discussions to the 1993 legislature and include recommendations for watershed and native ecosystem protection in the area.

Your Committee is optimistic that further discussions will be fruitful and encourages continuation of this process.

Your Committee on Planning, Land and Water Use Management concurs with the intent and purpose of H.C.R. No. 292, H.D. 1, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 3013 Planning, Land and Water Use Management on H.C.R. No. 293

The purpose of this Concurrent Resolution is to request the Board of Land and Natural Resources to consider placing 326.76 acres of Waikane Valley in the protective subzone.

In addition, the Board is requested to consider denying any golf course applications for Waikane Valley and to hold any hearings on the Valley at Waiahole School during nonworking hours.

Your Committee finds that there is substantial agreement among interested parties that Waikane Valley should be left largely undisturbed in order to protect and enhance precious natural assets. Placing the acreage in question in the protective subzone will help accomplish this purpose.

Your Committee has amended this Concurrent Resolution by making technical changes that have no substantive effect.

Your Committee on Planning, Land and Water Use Management concurs with the intent and purpose of H.C.R. No. 293, H.D. 1, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 293, H.D. 1, S.D. 1.

Signed by all members of the Committee.

SCRep. 3014 Planning, Land and Water Use Management on H.C.R. No. 374

The purpose of this Concurrent Resolution is to request the Department of Accounting and General Services to examine the feasibility of purchasing the Aiea Sugar Mill site from the California & Hawaiian Sugar Company and setting aside a portion for a new Aiea library.

The Department would be assisted by the State librarian.

Aiea's only library is old and inadequate for the needs of the growing community. The Sugar Mill would be a good location for a new facility, and since it is for sale it behooves the State to consider buying it.

Your Committee on Planning, Land and Water Use Management concurs with the intent and purpose of H.C.R. No. 374, H.D. 1, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 3015 Planning, Land and Water Use Management on H.C.R. No. 376

The purpose of this Concurrent Resolution is to request the Department of Land and Natural Resources to consider land banking shoreline parcels in Poipu to enable expansion of Poipu Beach Park.

The Department will work closely with Kauai County.

Your Committee finds that utilization of Poipu Beach Park is approaching its carrying capacity and that it must be expanded to ensure future viability.

Your Committee on Planning, Land and Water Use Management concurs with the intent and purpose of H.C.R. No. 376, H.D. 1, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 3016 Planning, Land and Water Use Management on H.C.R. No. 398

The purpose of this Concurrent Resolution is to request the Commission on Water Resource Management, in conjunction with the Board of Land and Natural Resources and the water board of each county, to invite interested parties from the public and private sectors to an interim conference for the purpose of developing a state water conservation plan.

The plan would include policies and objectives relating to reduction of water demand, improved efficiency in land management practices, and preservation and enhancement of state waters for all uses including recreation, agriculture, and navigation. The Commission will submit its draft plan to the 1993 Legislature.

Your Committee finds that a state water conservation plan will promote wise and efficient use and ensure that clean, potable, and sufficient water is continuously available to serve the needs of the public and private sectors.

Your Committee has amended this Concurrent Resolution by requesting that the Commission and Boards obtain input from the interested parties rather than meet in a formal conference.

Your Committee has also made several nonsubstantive technical changes for the purposes of clarity and style. As amended, this Concurrent Resolution and its title are identical to S.C.R. No. 186, S.D. 1, previously approved by your Committee.

Your Committee on Planning, Land and Water Use Management concurs with the intent and purpose of H.C.R. No. 398, H.D. 1, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 398, H.D. 1, S.D. 1.

Signed by all members of the Committee.

SCRep. 3017 Planning, Land and Water Use Management on H.C.R. No. 463

The purpose of this Concurrent Resolution is to articulate support for the Waikiki Yacht Club's continued efforts to bid on a long-term lease and commend the Club for its many activities and community contributions.

The Waikiki Yacht Club, situated on Public Trust lands, has been a leader in ocean recreational activities in Hawaii for many years, but rumors have recently surfaced that it may be rendered to the Office of Hawaiian Affairs in partial settlement of pending entitlement claims.

Your Committee finds that the Waikiki Yacht Club is an invaluable institution that should be preserved and supported for the benefit of members and the general community of water recreation and sports devotees.

Your Committee on Planning, Land and Water Use Management concurs with the intent and purpose of H.C.R. No. 463, H.D. 1, and recommends its adoption.

Signed by all members of the Committee except Senator Hagino.

SCRep. 3018 Agriculture and Environmental Protection on H.C.R. No. 154

The purpose of this Concurrent Resolution is to reduce the volume of solid waste materials being disposed of in Hawaii's landfills by requesting the counties to consider restricting or banning green waste disposal in their landfills, and to devise alternative methods for its disposal as part of their integrated solid waste management plans.

Your Committee finds that green waste constitutes the largest volume of solid waste being consigned to our landfills, and that its decomposition poses hazards to our ground water, as well as generating toxic methane gas which is both explosive, and also harmful to the ozone layer. Your Committee further finds that recycling of green waste would be more economically efficient and environmentally responsible than dumping it into our landfills, as proved by Kauai County.

Your Committee on Agriculture and Environmental Protection concurs with the intent and purpose of H.C.R. No. 154 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 3019 Agriculture and Environmental Protection on H.C.R. No. 329

The purpose of this Concurrent Resolution is to request the Department of Health to:

- (1) Determine the feasibility of instituting a comprehensive ground water quality monitoring program;
- (2) Explore the feasibility of making the water testing results of the monitoring program available to the public within seven days; and
- (3) Make maps showing well and water quality information available to the public.

Your Committee finds that there is public concern about the availability and reliability of information on water quality in Hawaii sufficient to warrant exploring the potential of a program of the type contemplated by this Concurrent Resolution.

Your Committee has amended the Concurrent Resolution by narrowing its scope to the feasibility of instituting a comprehensive ground water monitoring program on each island, and by making other amendments for the purposes of style, clarity, and accuracy.

Your Committee on Agriculture and Environmental Protection concurs with the intent and purpose of H.C.R. No. 329, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 329, S.D. 1.

Signed by all members of the Committee.

SCRep. 3020 Ways and Means on H.B. No. 2680

The purpose of this bill is to issue \$20,000,000 in special purpose revenue bonds to assist the Rehabilitation Hospital of the Pacific.

Your Committee finds that the Rehabilitation Hospital of the Pacific is the only comprehensive medical rehabilitation hospital in the State. As a consequence, it must be prepared to meet the growing needs of Hawaii's population of elderly and disabled individuals. Your Committee further finds that the issuance of the special purpose revenue bonds will save approximately \$4,300,000 in interest expense for the hospital. Since the Rehabilitation Hospital of the Pacific is a not-for-profit organization, these savings will be passed on directly to its patients.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2680 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 3021 Ways and Means on H.B. No. 3332

The purpose of this bill is to abolish the dispersal review council and to transfer the personnel, equipment, and documents of the council to the state health planning and development agency.

A recent circuit court ruling revealing a conflict between the council's regulatory authority and provisions of the Federal Fair Housing Act has rendered the intended effectiveness of the council uncertain. Accordingly, your Committee agrees that the council should be dissolved.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3332 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 3022 Culture, Arts and Historic Preservation on H.C.R. No. 207

The purpose of this resolution is to help protect the historic, cultural, natural and economic resources of Waipio Valley by requesting the Department of Land and Natural Resources (DLNR), in conjunction with other concerned parties, to develop and implement mechanisms to control public and commercial uses of the valley.

Your Committee notes the interest on the part of both the State and Bishop Museum, as well as other concerned parties, in the eventual public acquisition of Waipio. Until such time as fiscal considerations will allow for that eventuality, your Committee hopes that ways can be found to minimize adverse impacts in the valley, as requested in this resolution.

Your Committee on Culture, Arts and Historic Preservation concurs with the intent and purpose of H.C.R. No. 207 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 3023 Culture, Arts and Historic Preservation on H.C.R. No. 208

The purpose of this Concurrent Resolution is to request that public access into Waipio Valley by way of Waipio Valley Road be controlled.

Your Committee finds that overutilization of Waipio Valley Road may result in danger to the public and that, because of its isolation, traffic on the road is difficult to control. The County of Hawaii, the Bishop Museum, the Public Utilities Commission, the Waipio Taro Farmers Association, the Waipio Valley Tour Operators, and the Kukuihaele-Waipio Community Association all are closely involved with Waipio Valley. The Concurrent Resolution requests that they study

the situation and report to the Legislature before the Regular Session of 1993 regarding traffic flow and possible restrictions.

Your Committee on Culture, Arts and Historic Preservation concurs with the intent and purpose of H.C.R. No. 208 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 3024 Legislative Management on H.C.R. No. 5

The purpose of this Concurrent Resolution is to ask the Legislative Reference Bureau to study a number of issues relating to the special care needs of Adult Residential Care Home (ARCH) operators.

Your Committee finds that there is a growing demand for community-based ARCH's for our frail elders and other persons with disabilities. Your Committee further finds that ARCH operators are faced with unwieldy administrative rules and a lack of resources which threatens their ability to continue to provide these essential services.

Your Committee on Legislative Management concurs with the intent and purpose of H.C.R. No. 5 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 3025 Legislative Management on H.C.R. No. 65

The purpose of this Concurrent Resolution is to request the Legislative Reference Bureau to assess the need for regulatory controls on unaccredited degree granting and non-degree granting institutions established in the State of Hawaii.

Your Committee finds that the problem of regulating unaccredited institutions is not new to the Legislature. During the Regular Session of 1990, the Fifteenth Legislature enacted Act 226, Session Laws of Hawaii 1990, which attempted to clarify years of jurisdictional disputes between the Department of Education and the DCCA, as well as establish basic regulatory controls on these institutions by requiring all unaccredited institutions conducting operations in the State to register with the DCCA.

However, your Committee has received information that the consuming public may still be at risk from unaccredited degree granting institutions and proprietary schools. The DCCA representative pointed out that in recent months, the number of inquiries relating to unaccredited degree granting institutions in Hawaii have increased from approximately two per year to two per month. These inquiries have come from prospective students regarding the registration status of the school in question.

In light of this, your Committee believes that the study requested in this Concurrent Resolution would provide the Legislature with current information regarding this issue, as well as recommend ways of rectifying the problems associated with unaccredited degree granting and non-degree granting institutions.

Your Committee on Legislative Management concurs with the intent and purpose of H.C.R. No. 65, H.D. 1, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 3026 Legislative Management on H.C.R. No. 403

The purpose of this Concurrent Resolution is to request the Legislative Reference Bureau to conduct a comprehensive review of the commercial practices and regulation of out-of-state pharmacies.

Your Committee on Legislative Management concurs with the intent and purpose of H.C.R. No. 403 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 3027 Legislative Management on H.C.R. No. 433

The purpose of this Concurrent Resolution is to request that the Legislative Auditor assess the coordination of mental health services for emotionally handicapped children and adolescents in Hawaii's public schools between the Department of Health and the Department of Education per their Memorandum of Agreement.

Your Committee finds that even with a Memorandum of Agreement in effect to provide a continuum of appropriate mental health services to children and adolescents in the State, emotionally handicapped children continue to fall through the cracks or appear to be inadequately served.

Your Committee on Legislative Management concurs with the intent and purpose of H.C.R. No. 433, H.D. 2, and recommends its adoption.

Signed by all members of the Committee.