

CONFERENCE COMMITTEE REPORTS

Conf. Com. Rep. No. 1 on H.B. No. 4142

The purpose of this bill is to propose an amendment to the State Constitution to allow the use of revenue bonds to finance the Hawaii Hurricane Relief Fund (HHRF).

Act 339, Session Laws of Hawaii 1993, created the HHRF to provide property owners with hurricane insurance coverage. The act also authorized the issuance of up to \$200,000,000 in revenue bonds to fund the program.

Article VII, Section 12, of the State Constitution authorizes the Legislature to issue revenue bonds, and designates the type of undertaking that may be financed with revenue bonds. Currently, the Constitution permits the use of revenue bonds to finance "a public undertaking, improvement, system or loan program".

Your Committee finds that it is necessary to clarify the State Constitution to establish that the issuance of revenue bonds to provide loans to the HHRF for financing purposes is authorized as the issuance of revenue bonds for a public loan program. Accordingly, your Committee has amended the bill by:

- (1) Amending the purpose clause of the bill;
- (2) Amending the definition of "net revenues" or "net user tax receipts" to include revenues or receipts derived from any payments or return on security under a loan program, after deductions have been made for operational and administrative costs, and payment of principal and interest on revenue bonds issued;
- (3) Amending the definition of "rates, rentals and charges" to establish that insurance premium payments, assessments, and surcharges shall constitute rates, rentals, and charges of a state property insurance program;
- (4) Amending the definition of "revenue bonds" to include all bonds payable from the revenues or user taxes of a loan program to provide loans to a state property insurance program providing hurricane insurance coverage to the general public;
- (5) Conforming the definition of "user tax" to provide that mortgage recording taxes shall constitute user taxes of a state property insurance program;
- (6) Amending the ballot question that proposes this constitutional amendment;
- (7) Making technical, nonsubstantive changes for purposes of style, clarity and consistency.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 4142, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 4142, S.D. 1, C.D. 1.

Senators Ikeda, Baker, Holt, Iwase, Liu.
Managers on the part of the Senate.

Representatives Menor, Tom, Say, Cachola, Kawakami, White, Yoshinaga, Marumoto.
Managers on the part of the House.

Conf. Com. Rep. No. 2 on H.B. No. 2897

The purpose of this bill is to:

- (1) Require the Department of Education to submit annual expenditure reports by location and function as part of its annual educational status report; and
- (2) Provide for the certification of dental health for school-aged children entering public and private schools for the first time.

Your Committee believes that the detailed educational status report proposed in Section 1 of this bill is important to the oversight responsibilities of the legislature regarding the Department of Education's budget. The report will provide needed information without unduly burdening the Department.

Your Committee has agreed that school-aged children shall have a dental examination prior to school entry and that any necessary treatment shall be completed within one year. Some concern was expressed as to the consequences a child would face if these requirements were not met. Your Committee notes that Section 2, subsection (c) of this bill addresses this issue and that children will not be excluded if the requirement is not met.

Your Committee upon further consideration has made the following amendments to the bill:

- (1) Required any needed dental treatment to be completed within one year; and
- (2) Deleted the reference to H.B. 3252, because that bill is no longer under consideration by the legislature.
- (3) Made 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. 2897, 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. 2897, H.D. 2, S.D. 2, C.D. 1.

Senators Chumbley, Levin, Kawamoto, Matsunaga.
Managers on the part of the Senate.

Representatives Pepper, Stegmaier, Kawakami, Takai, Halford.
Managers on the part of the House.

Conf. Com. Rep. No. 3 on H.B. No. 2433

The purpose of this bill is to increase the efficiency of the motor carrier law by extending the repeal date of Act 105, Session Laws of Hawaii 1995, from June 8, 1996, to June 8, 1998.

Your Committee on Conference finds that by extending the repeal date for an additional two more years will give this motor carrier enforcement program an opportunity to be fully implemented.

Your Committee on Conference has amended the bill to ensure that on June 8, 1998, only the language relating to the expansion of the definition of "enforcement officer" to include motor vehicle safety officers will be repealed in Sections 269-1, 271-4, 271-27(g) and (j), Hawaii Revised Statutes.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2433, 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. 2433, H.D. 2, S.D. 2, C.D. 1.

Senators Fukunaga, Matsuura, Liu.
Managers on the part of the Senate.

Representatives Hiraki, Tom, Yoshinaga, Case, Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 4 on H.B. No. 2358

The purpose of this bill is to prohibit an exemption from the Department of Transportation's (DOT) driver qualification rules for individuals driving a bus as defined in section 286-2, Hawaii Revised Statutes.

Your Committee on Conference finds that operators of buses designed to transport more than ten passengers should be required to obtain the required school vehicle driver qualifications.

Your Committee on Conference has amended this bill by requiring individuals who drive buses to meet school vehicle driver qualifications rather than school bus driver qualifications.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2358, 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. 2358, H.D. 1, S.D. 1, C.D. 1.

Senators Fernandes Salling, Tanaka, Taniguchi, Anderson.
Managers on the part of the Senate.

Representatives Hiraki, Isbell, Ito, Nakasone, Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 5 on H.B. No. 2549

The purpose of this bill is to ensure that the State Planning Council on Developmental Disabilities operates independently as required by federal law.

Your Committee has amended this bill by making a technical, nonsubstantive amendment.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2549, 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. 2549, H.D. 2, S.D. 2, C.D. 1.

Senators Ikeda, Levin, Baker, Fukunaga Liu.
Managers on the part of the Senate.

Representatives Pepper, Yoshinaga, Kawakami, Ito, Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 6 on H.B. No. 3853

The purpose of this bill is to allow the Director of Finance to issue special purpose revenue bonds that are subject to federal income taxes with respect to:

- (1) Assisting not-for-profit corporations that provide health care facilities to the general public;

- (2) Assisting manufacturing enterprises; and
- (3) Assisting utilities serving the general public in providing electric energy or gas.

Your Committee has amended this measure by also allowing the Director of Finance to issue special purpose revenue bonds that are subject to federal income taxes with respect to:

- (1) Assisting processing enterprises; and
- (2) Assisting industrial enterprises.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3853, 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. 3853, H.D. 1, S.D. 1, C.D. 1.

Senators Ikeda, Baker, Fukunaga, Kawamoto, Liu.
Managers on the part of the Senate.

Representatives Say, Jones, Kawakami, Nakasone, Marumoto.
Managers on the part of the House.

Conf. Com. Rep. No. 7 on H.B. No. 3211

The purpose of this bill is to:

- (1) Prohibit state agencies from levying impact fees on projects without first developing a schedule of impact fees that will be levied on all projects in a fair and equitable manner; and
- (2) Require counties to enact appropriate impact fee ordinances and adopt rules to effectuate the imposition and collection of the fees prior to assessing impact fees.

Your Committee has agreed to amend this bill to its previous form as passed out of the House Committee on Finance. Accordingly, this bill has been amended by:

- (1) Deleting the section that prohibits state agencies from levying impact fees without first developing a fair and equitable schedule of impact fees;
- (2) Deleting the accompanying definitions for the aforementioned section; and
- (3) Deleting the section allowing counties and state agencies to adopt and administer temporary rules establishing impact fees.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3211, 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. 3211, H.D. 1, S.D. 2, C.D. 1.

Senators Ikeda, Baker, Fernandes Salling, Kawamoto, Taniguchi, Anderson.
Managers on the part of the Senate.

Representatives Takumi, Say, Nakasone, Ito, Ward.,
Managers on the part of the House.

Conf. Com. Rep. No. 8 on H.B. No. 3419

The purpose of this bill is to:

- (1) Allow applicants from other states to acquire a license to practice medicine in Hawaii by passing the Special Purpose Examination (SPEX) and meeting certain other educational and professional requirements; and
- (2) Provide that applicants are eligible to take a national medical examination no sooner than the first year of residency or no sooner than the second year of residency if a graduate of a foreign medical school.

Your Committee has amended this bill by:

- (1) Deleting the eligibility requirements for national medical examinations; and
- (2) Making technical, nonsubstantive revisions for purposes of clarity and consistency.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3419, 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. 3419, H.D. 1, S.D. 1, C.D. 1.

Senators Holt, Ihara, Anderson.
Managers on the part of the Senate.

Representatives Pepper, Menor, Cachola, Hamakawa, Anderson.
Managers on the part of the House.

Conf. Com. Rep. No. 9 on H.B. No. 3086

The purpose of this bill is to enable motor vehicle rental companies to offer an additional refueling option to their customers.

Currently, motor vehicle rental companies (lessors) provide, by statute, a single refueling option in which the lessee is to return the vehicle with the same amount of fuel as when the vehicle is delivered. If the lessee returns the vehicle with less fuel, the lessee is charged the prevailing market price, plus a surcharge of up to one-half of the market price.

This bill permits the lessors to provide an additional refueling option, while prohibiting the lessor from paying a commission to its employees for selling any fuel charge options. This additional option provides for the lessee to purchase a full tank of fuel at the time of taking delivery of the vehicle (pre-purchase the fuel) at the prevailing retail market price. With this option, the lessee has the convenience of returning the vehicle with any amount of fuel remaining. The lessee does not need to refuel the vehicle before returning it to the lessor and will not be charged for any additional refueling.

Additionally, if the lessee drives less than one hundred miles, and the lessee has returned the vehicle with less than a full tank of fuel, the lessee's pre-purchase refueling charges will be canceled, and the lessee will instead be charged a refueling fee at the market price plus the allowable surcharge. In other words, if the vehicle is not driven far, the lessee will have returned the vehicle with a significant amount of the pre-purchased fuel remaining. Therefore, the lessor will cancel the pre-purchase option and only charge for the fuel needed to refuel the vehicle, plus the surcharge. Although the refueling charges will be more expensive than if the lessee had refueled the vehicle, the total cost will be less than that of a pre-purchased full tank of fuel.

The pre-purchase refueling option is designed to be a convenience factor for those lessees desiring to avoid having to refuel the vehicle themselves or incur the lessor's higher refueling fee. Generally, this option is utilized by lessees while on business, where a time schedule may preclude the opportunity to stop at a gas station before returning the vehicle. This option is widely offered by the major lessors on the mainland, and many business travellers are surprised that this option is not available in Hawaii.

This option would be in addition to the current permissible refueling charges.

Your Committee has amended the bill by changing the effective date to upon its approval.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3086, 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. 3086, H.D. 1, S.D. 1, C.D. 1.

Senators Holt, Ihara, Anderson.
Managers on the part of the Senate.

Representatives Menor, Case, Garcia, Hiraki, Meyer.
Managers on the part of the House.

Conf. Com. Rep. No. 10 on H.B. No. 3398

The purpose of this bill is to reduce costs and improve the efficiency of the Business Registration Division of the Department of Commerce and Consumer Affairs (DCCA) by eliminating the requirement that the Director of Commerce and Consumer Affairs (Director) annually publish a list of all charitable organizations, professional fund-raising counsel, and professional solicitors that have filed statements with DCCA.

Additionally, the bill:

- (1) Deletes the provision that allows the Director to:
 - (A) Accept information filed by charitable organizations, professional fund-raising counsel, and professional solicitors with the appropriate authority of another state in lieu of the information required to be filed by State law; and
 - (B) Grant exemptions from the requirement of filing annual statements to charitable organizations organized under the laws of another state;

and
- (2) Amends to an unspecified amount, the maximum amount that charitable organizations may receive in gross receipts and still be exempt from the filing requirements.

Since much of the information that charitable organizations are required to file with the State may be obtained from tax forms that are already filed by the charitable organizations with the Internal Revenue Service, the state filings requirements are not necessary. Repealing this filing requirement would substantially reduce costs for both the Division and charitable organizations.

Accordingly, your Committee has amended the bill to repeal sections 467B-2 and 467B-11, Hawaii Revised Statutes, that set forth the filing requirements for charitable organizations.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3398, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3398, S.D. 1, C.D. 1.

Senators Holt, Ige, Iwase, Anderson.
Managers on the part of the Senate.

Representatives Menor, Case, Garcia, Yoshinaga, Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 11 on H.B. No. 3400

The purpose of this bill is to amend the Hawaii Business Corporation Act, Chapter 415, Hawaii Revised Statutes (HRS), to provide for simplified, streamlined procedures for filing certain documents with the business registration division, and to make certain technical, housekeeping amendments to Chapters 415, 415B, and 425, HRS.

The bill adds a new section to Chapter 415, HRS, that sets forth the requirements for amended and restated articles of incorporation for a domestic corporation. Under these provisions, the amended and restated articles of incorporation may be combined and filed together, rather than separately as articles of amendment and restated articles of incorporation. The bill also amends section 415-48.5, HRS, to allow for the inclusion of indemnification provisions in the articles of incorporation filed with the division. Current law requires that indemnification provisions be filed as an amendment to the initial filing. Other amendments contained in the bill make housekeeping changes to existing statutes.

Technical, nonsubstantive amendments were made to the bill for purposes of style, clarity, and consistency.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3400, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3400, S.D. 1, C.D. 1.

Senators Holt, Iwase, Anderson.
Managers on the part of the Senate.

Representatives Menor, Hiraki, Swain, Yoshinaga, Meyer.
Managers on the part of the House.

Conf. Com. Rep. No. 12 on H.B. No. 3409

The purposes of this bill are to:

- (1) Establish restrictions on the type of nonprofit organizations that may provide services under contract with the Office of Consumer Protection (OCP);
- (2) Clarify the amounts a financial institution is entitled to receive as reimbursement for subpoena-related expenses;
- (3) Authorize undercover investigations by OCP employees; and
- (4) Repeal the consumer advisory council.

Upon careful consideration, your Committee on Conference has amended the bill to provide that OCP may contract with nonprofit social service societies and private nonprofit trade, professional and business organizations for the performance of certain OCP functions. Additionally, technical, nonsubstantive amendments have been made to the bill for purposes of style, clarity, and consistency.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3409, 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. 3409, H.D. 1, S.D. 1, C.D. 1.

Senators Holt, Iwase, Anderson.
Managers on the part of the Senate.

Representatives Menor, Tom, Herkes, White, Meyer.
Managers on the part of the House.

Conf. Com. Rep. No. 13 on H.B. No. 291

The purpose of this bill is to authorize the University of Hawaii Board of Regents (Board) to appoint an ex-officio student member as a representative to each of its standing committees.

Upon careful consideration, your Committee on Conference has amended this measure by:

- (1) Clarifying that the Board may appoint the same student member to each of its standing committees or may appoint more than one student member to any one standing committee; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity and consistency.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 291, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 291, S.D. 1, C.D. 1.

Senators Ige, McCartney, Taniguchi.
Managers on the part of the Senate.

Representatives Lee, Takai, Tarnas, Halford.
Managers on the part of the House.

Conf. Com. Rep. No. 14 on H.B. No. 3618

The purpose of this bill is to provide legislative oversight over administrative agency rules by the Joint Legislative Management Committee.

Your Committee has amended this bill by:

- (1) Deleting the size requirement that a group must have in order to file an application for review of an administrative agency rule with the co-chairs of the Joint Legislative Management Committee; and
- (2) Making technical, nonsubstantive revisions for purposes of style and consistency.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3618, 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. 3618, H.D. 2, S.D. 1, C.D. 1.

Senators Ikeda, Baker, Fernandes Salling, Kawamoto, Solomon, Anderson.
Managers on the part of the Senate.

Representatives Kanoho, Tom, Say, P. Oshiro, Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 15 on H.B. No. 4074

The purpose of this bill is to provide the State with additional agricultural lands by directing the Board of Land and Natural Resources (BLNR) to enter into land exchange negotiations with the Galbraith Estate to exchange public lands for private lands in Central Oahu. The bill also requires that the BLNR report back to the Legislature on the lands that are to be conveyed and specific details regarding the lands.

Act 177, Session Laws of Hawaii 1994, approved a land exchange involving Galbraith Estate lands and public lands in Kapolei, Oahu. This law was automatically repealed on June 30, 1995. During the 1995 session, the Legislature passed S.B. No. 1650 which would have extended the repeal date in Act 177 to June 30, 1996. However, the Governor vetoed S.B. No. 1650 in large part due to liability concerns. Specifically, some of the Galbraith lands had been included as part of the Del Monte Superfund Site under the Comprehensive Environmental Response, Compensation and Liability Act. However, according to the Hawaiian Trust Company, the contaminated land is located near the Kunia well on lands not owned by the Galbraith Trust. The Kunia well site, which is the focus of the Environmental Protection Agency (EPA) investigation is located five miles from the nearest Galbraith parcel.

Your Committee on Conference has made the following amendments:

- (1) Deleted the reference to chapter 171-50(c), Hawaii Revised Statutes, in Section 3 of the bill pertaining to legislative pre-approval of a land exchange;
- (2) Inserted a requirement for the Department of Health (DOH) to submit with the BLNR report, an update on EPA and DOH efforts to remove the Galbraith lands from the National Priorities List; and
- (3) Made technical, nonsubstantive changes for purposes of clarity and consistency.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 4074, 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. 4074, H.D. 1, S.D. 1, C.D. 1.

Senators Ikeda, Iwase, Bunda, Holt, Anderson.
Managers on the part of the Senate.

Representatives M. Oshiro, Say, Garcia, Suzuki, Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 16 on H.B. No. 3417

The purposes of this bill are to:

- (1) Eliminate the licensing of motor vehicle auctioneers, manufacturers, factory branches, factory representatives, distributors, distributor branches, and distributor representatives; and
- (2) Allow preliminary approval of dealer applications by the executive officer of the Motor Vehicle Industry Licensing Board (Board), subject to ratification by the Board.

The elimination of licensing of certain motor vehicle industry categories is in line with most of the recommendations of the Office of the Legislative Auditor in its 1995 sunset review of the Board. Additionally, federal regulation of manufacturers, distributors, and their respective branches and representatives is more than adequate to protect consumers.

Technical, nonsubstantive amendments were made to the bill for purposes of style, clarity, and consistency.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3417, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3417, S.D. 1, C.D. 1.

Senators Holt, Iwase, Anderson.
Managers on the part of the Senate.

Representatives Menor, Garcia, Hamakawa, Yoshinaga, Meyer.
Managers on the part of the House.

Conf. Com. Rep. No. 17 on H.B. No. 2359

The purpose of this bill is to create a more equitable distribution of representation on the Hawaii Property Insurance Associations's (HPIA) Board of Directors (Board) and thereby ensure that all affected parties have a sufficient voice and vote in handling property insurance matters.

Under existing law, the Board is composed of twelve members: nine voting members selected by HPIA member insurers, one voting member appointed by the insurance commissioner to represent insurance agents, and two voting members appointed by the insurance commissioner to represent the general public.

This bill would restructure the Board's membership by increasing the number of members who represent the public, and decreasing the number of members who are selected by the member insurers. This restructuring of the Board would further promote openness and fairness in the organization, management, policies, and activities of the HPIA that ultimately will benefit the consumers.

Your Committee has amended this bill by providing for the board to be composed of the following: eight voting members selected by HPIA member insurers, one voting member appointed by the insurance commissioner to represent insurance agents, and three voting members appointed by the insurance commissioner to represent the general public. Additionally, your Committee has amended this bill to make the effective date upon the Act's approval.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2359, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2359, S.D. 1, C.D. 1.

Senators Holt, Levin, Anderson.
Managers on the part of the Senate.

Representatives Menor, Cachola, Herkes, Swain, Meyer.
Managers on the part of the House.

Conf. Com. Rep. No. 18 on H.B. No. 3862

The purpose of this bill is to allow principals to exclude students for possession of intoxicating liquor or illicit drugs while attending school for a period up to one year, with the approval of the superintendent, and to exclude students found to be in possession of dangerous instruments which may be used or are known to be capable of causing death or serious bodily injury from attending school for not less than one year.

Your Committee on Conference has amended this bill by:

- (1) Referring to dangerous weapons rather than dangerous instruments to avoid ambiguity as to when an object is considered offensive;
- (2) Moving the possession of dangerous weapons, switchblade knives, and illicit drugs into the zero tolerance policy section instead of in the firearms section under Section 298-11(b), Hawaii Revised Statutes (HRS), which requires at least a one year exclusion of the student;
- (3) Defining dangerous weapons, switchblade knives, and illicit drugs;
- (4) Changing the maximum period of exclusion under the zero tolerance policy from one year to 92 school days, which is the approximate length of one semester;
- (5) Deleting references to H.B. 3252 since it was superseded by S.B. 2446;
- (6) Deleting references to the repeal of Section 298-11, HRS, since this bill does not repeal that section; and
- (7) Making technical, nonsubstantive amendments for purposes of consistency and clarity.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3862, 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. 3862, H.D. 2, S.D. 1, C.D. 1.

Senators Chumbley, Grauly, Kawamoto.

Managers on the part of the Senate.

Representatives Stegmaier, Tom, Takai, White, Halford .
Managers on the part of the House.

Conf. Com. Rep. No. 19 on H.B. No. 871

The purpose of this bill as received is to empower the counties to regulate time share associations and units and to repeal chapter 514E, Hawaii Revised Statutes, relating to time sharing plans. This would provide the counties with an additional method of generating fee revenues that are uninterrupted by state intervention.

Your Committee has amended this measure by deleting its substance and inserting therefor provisions that would permit time share associations to levy assessments which shall be a lien on the owner's time share interest. This would enable the time share associations to collect unpaid assessments from a delinquent time share owner through a foreclosure by sale.

Currently, a time share plan document may permit enforcement of an unpaid assessment lien through foreclosure by power of sale. However, after the sale, a title insurance underwriter may be unwilling to insure the title to the time share interval because the power of sale has no statutory authority. The association is then burdened with a time share interest that is difficult to sell.

This bill would first establish that the assessments by time share associations are liens on the time share interests of delinquent owners. This bill would then provide the associations with the authority to collect on unpaid assessment liens by utilizing foreclosure under power of sale. The statutory provision of foreclosure under power of sale would preclude the current problem of title insurance underwriters unwilling to insure titles to time share intervals, and thus would enable the associations to utilize a cost effective foreclosure by sale.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 871, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 871, S.D. 1, C.D. 1.

Senators Holt, Iwase, Anderson.
Managers on the part of the Senate.

Representatives Menor, Takumi, Suzuki, Yoshinaga, Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 20 on H.B. No. 3102

The purpose of this bill is to:

- (1) Establish a presumption that an owner or lessee has violated the exemption provisions of the contractor licensing law if that person obtains an exemption from the contractor's licensing requirements more than once in a two-year period, and to provide penalties therefor;
- (2) Require that an applicant for an owner-builder exemption understand an owner-builder's legal responsibilities prior to approval of the exemption;
- (3) Establish penalties for unlicensed contracting activity undertaken to repair damage caused by natural disasters or in cases involving elderly consumers;
- (4) Require the Regulated Industries Complaints Office to report criminal violations of chapter 444, Hawaii Revised Statutes, to the county prosecutor or state attorney general; and
- (5) Increase the number of years a bidder on a State public works contract must be current on the bidder's state tax obligations from two to four successive years to qualify for bidding preference and increase the ceiling on the bidding preference amount from five to fifteen per cent of the bid amount.

Imposing restrictions on the use of the owner-builder exemption will help to curb abuse of the exemption by persons attempting to circumvent the licensing requirements for contractors. Additionally, establishing penalties for licensing violations involving the elderly and victims of natural disasters will help to protect some of the state's most vulnerable individuals.

Upon careful consideration, your Committee on Conference has amended the bill by:

- (1) Deleting the provisions relating to the bidding preference for public works projects;
- (2) Deleting the savings clause provision; and
- (3) Making technical, nonsubstantive revisions for purposes of style, clarity, and consistency.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3102, 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. 3102, H.D. 1, S.D. 2, C.D. 1.

Senators Ikeda, Holt, Iwase, Kawamoto, Anderson.
Managers on the part of the Senate.

Representatives Menor, Tom, Swain, White, Meyer.
Managers on the part of the House.

Conf. Com. Rep. No. 21 on H.B. No. 3760

The purpose of this bill is to enhance the state's attractiveness as a captive insurance domicile by:

- (1) Expanding the definition of "affiliated company" to allow pure captive insurance companies to insure the risks of a parent company's affiliates; and
- (2) Providing for the confidentiality of the Insurance Commissioner's examination reports on pure captive insurance companies, except when it is in the public interest to open the records of a financially distressed company.

Your Committee on Conference has amended the bill by:

- (1) Providing that the Act shall become effective upon approval; and
- (2) Making technical, nonsubstantive amendments for purposes of style, clarity, and consistency.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3760, 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. 3760, H.D. 1, S.D. 1, C.D. 1.

Senators Holt, Iwase, Anderson.
Managers on the part of the Senate.

Representatives Menor, Case, Garcia, Yoshinaga, Meyer.
Managers on the part of the House.

Conf. Com. Rep. No. 22 on H.B. No. 3434

The purpose of this bill is to allow schools to charge fees for intersession programs by setting forth the distinction between "summer school" and year-round education "intersession" programs.

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

- (1) Deleting all references to H.B. No. 3252; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity and consistency.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3434, 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. 3434, H.D. 2, S.D. 2, C.D. 1.

Senators Ikeda, Chumbley, Kawamoto, Liu.
Managers on the part of the Senate.

Representatives Stegmaier, Kawakami, Kahikina, Morihara, Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 23 on H.B. No. 3096

The purpose of this bill is to clarify the law relating to return of merchandise by replacing the existing refunds and exchanges statute with a new section that addresses the return of merchandise issue as it relates to current industry practices.

Your Committee on Conference finds that problems relating to merchandise refunds and exchanges constitute one of the largest areas of complaints received by the Office of Consumer Protection. While the existing law provides many good provisions, the law is ambiguous and does not adequately cover certain areas relating to refunds and exchanges.

After careful consideration, your Committee on Conference has amended the bill by among other things:

- (1) Specifying that ancillary charges includes all charges paid to the merchant that are necessary for the use of the goods for its purchased purpose;
- (2) Requiring that a conspicuous sign stating the merchant's refund policy be posted;
- (3) Specifying that when determining the full amount of a refund, exchange, or merchandise credit, merchants may not make a deduction for ancillary charges;
- (4) Clarifying that when determining the full amount of a refund, exchange, or merchandise credit for returns for reasons other than defective goods, merchants may make a deduction for repacking, pickup, and transportation charges;
- (5) Including a provision regarding the return of custom or specially ordered goods;

- (6) Specifying that merchants are not required to accept a return if the purchaser has retained the goods in excess of forty-five days;
- (7) Removing the mutual agreement provision;
- (8) Changing the effective date to July 1, 1996; and
- (9) Making technical, nonsubstantive revisions for purposes of style, clarity, and consistency.

Your Committee on Conference believes that as amended, the bill will:

- (1) Ensure adequate protection of consumers' interests; and
- (2) Help merchants and consumers better understand the law and resolve disputes among themselves;

thereby representing the best balance between the interests of merchants and consumers.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3096, 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. 3096, H.D. 1, S.D. 1, C.D. 1.

Senators Holt, Iwase.
Managers on the part of the Senate.

Senator Anderson did not sign the report.

Representatives Menor, Tom, Garcia, Swain, Yoshinaga, Meyer.
Managers on the part of the House.

Conf. Com. Rep. No. 24 on H.B. No. 3809

The purpose of this bill is to reduce the illegal sale of tobacco products to minors by improving the signage requirements for the sale of tobacco products in retail establishments.

Specifically, this bill does the following:

- (1) Decreases the height and capitalization requirements of the letters in the signs that state, "The sale of tobacco products to persons under eighteen is prohibited"; and
- (2) Requires that the signs also be posted at or near the point of sale where tobacco products are sold.

Currently, the signs displaying the statement required by law must be in capital letters that are one inch in height. This translates into signs that are often times too large to be posted in locations close to the point of sale.

However, by reducing the height requirement of the letters to one-half inch, and no longer requiring that all letters be capitalized, the signs can more easily be posted at the point of sale. Therefore, a deterrence to the illegal sales of tobacco products to minors will be further enhanced.

Your Committee has amended this bill by deleting the effective date of January 1, 3001, and adopting an effective date that shall take effect upon its approval. Additionally, your Committee has amended this bill by making 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. 3809, 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. 3809, H.D. 1, S.D. 2, C.D. 1.

Senators Holt, Ihara.
Managers on the part of the Senate.

Senator Anderson did not sign the report.

Representatives Menor, Garcia, Hamakawa, Yoshinaga, Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 25 on H.B. No. 599

The purpose of this bill is to clarify and revise provisions of the administrative revocation of driver's license law by:

- (1) Clarifying an apparent conflict between two sections in the administrative driver's license revocation statute regarding extension of a temporary driving permit for good cause;
- (2) Specifying legislative intent that the district court is precluded from remanding upon judicial review to the administrative driver's license revocation office for further hearings; and
- (3) Excluding Saturday from the computation of the time period in which any act in this part is to be done.

Your Committee on Conference has amended this bill by:

- (1) Extending to six days the period the arrestee has to request the director to schedule an administrative hearing to review the administrative revocation; and
- (2) Permitting the issuance of a conditional driving permit under certain conditions if the arrestee has had no prior alcohol enforcement contacts during the preceding five years.

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

Senators Grauly, Chumbley, Matsunaga, Anderson.
Managers on the part of the Senate.

Senator Fernandes Salling did not sign the report.

Representatives Tom, Herkes, White, Kawanakoa.
Managers on the part of the House.

Conf. Com. Rep. No. 26 on H.B. No. 1866

The purpose of this bill is to specify those instances and occasions in which members of a board may discuss certain board matters or conduct an emergency public meeting in a manner that does not undermine the essence of open government.

Your Committee on Conference has amended this bill to include provisions that:

- (1) Allow two or more members of a board to discuss the selection of the board's officers in private without limitation or subsequent reporting provided that the discussion is held with fewer than quorum being present;
- (2) Allow discussions between the Governor and one or more members of the board rather than two or more members of the board;
- (3) Add that those to be notified in the emergency meeting situation include those who requested notification "on a regular basis";
- (4) Amend the definition of "unanticipated event" by listing those events which are applicable and deleting specific examples of such events;
- (5) Have the Attorney General submit a report in 1997 only, instead of in 1997 and 1998; and
- (6) Make 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. 1866, 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. 1866, H.D. 1, S.D. 1, C.D. 1.

Senators Grauly, Matsunaga, Matsuura, McCartney.
Managers on the part of the Senate.

Senator Tam did not sign the report.

Representatives Tom, Herkes, White, Kawanakoa.
Managers on the part of the House.

Representative Cachola did not sign the report.

Conf. Com. Rep. No. 27 on H.B. No. 2603

The purpose of this bill is to clarify the qualifications of prospective jurors and ensure that a prospective juror may not be automatically excluded from jury service based solely upon a hearing, vision, or physical impairment.

Your Committee finds that the intent of this measure is to ensure that a juror's communication ability is at the level necessary to perform the duties of a juror and fairly hear and understand the proceedings.

Your Committee has amended the bill by:

- (1) Deleting the provision which states that a prospective juror may not be automatically excluded from jury service based solely upon a hearing, vision, or physical impairment; and
- (2) Making a technical nonsubstantive amendment to correct a drafting error.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2603, 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. 2603, H.D. 1, S.D. 1, C.D. 1.

Senators Grauly, Chumbley, Matsunaga, McCartney, Anderson.
Managers on the part of the Senate.

Representatives Tom, Hamakawa, White, Yamane.
Managers on the part of the House.

Conf. Com. Rep. No. 28 on H.B. No. 2868

The purpose of this bill is to:

- (1) Reduce the maximum prison term from one year to thirty days for first and second convictions for the motor vehicle licensing provisions covered by the penalty section in section 286-136, Hawaii Revised Statutes (HRS), while retaining a maximum term of imprisonment of one year for a third conviction within a five-year period;
- (2) Eliminate the graduated penalty schedule for first, second, and third convictions for various traffic offenses contained in chapter 291C, HRS; and
- (3) Make technical, nonsubstantive revisions to section 286-131, HRS.

Your Committee on Conference has amended this bill by retaining the graduated penalty schedule for first, second, and third convictions contained in section 291C-161, HRS, but has increased the maximum fine permitted for the first and second convictions from \$100 to \$200 and \$200 to \$300, respectively.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2868, 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. 2868, H.D. 1, S.D. 1, C.D. 1.

Senators Grauly, Matsunaga, McCartney, Tam, Anderson.
Managers on the part of the Senate.

Representatives Tom, Herkes, Swain, White, Kawanakoa.
Managers on the part of the House.

Conf. Com. Rep. No. 29 on H.B. No. 2975

The purpose of this bill, as received, is:

- (1) To make all class A felony offenses nonprobationable; and
- (2) To provide for mandatory minimum terms of imprisonment for offenses involving methamphetamines.

Your Committee on Conference has amended this bill by:

- (1) Deleting the section of the bill that makes Class A felony drug offenses nonprobationable; and
- (2) By adding the words "or any of its salts, isomers, and salts of isomers" when referring to methamphetamines to track the description of the drug more accurately.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2975, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2975, S.D. 1, C.D. 1.

Senators Grauly, Matsunaga, Matsuura, McCartney, Anderson.
Managers on the part of the Senate.

Representatives Tom, Herkes, Saiki, White, Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 30 on H.B. No. 3046

The purpose of this bill is to:

- (1) Add Unauthorized Control of a Propelled Vehicle to those offenses subject to sentencing of repeat offenders;
- (2) Prevent those convicted multiple times of drug and property offenses from receiving lesser mandatory minimum terms of imprisonment;
- (3) Prohibit the parole of repeat offenders until the expiration of the mandatory minimum term of imprisonment;
- (4) Delete the element of trespass from the offense of Sexual Assault in the Fourth Degree; and
- (5) Create a new offense of Unauthorized Entry into a Motor Vehicle.

Your Committee on Conference has amended this bill by:

- (1) Deleting the provision that prohibits persons convicted multiple times of drug and property offenses from receiving lesser mandatory minimum terms of imprisonment under the mitigation section of the repeat offender statute;
- (2) Deleting the section that eliminated the element of trespass from the offense of Sexual Assault in the Fourth Degree; and
- (3) Adding a new offense of Interference with the Operator of a Public Transit Vehicle because of the heightened danger to the public involved when such drivers are assaulted or terrorized.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3046, 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. 3046, H.D. 1, S.D. 1, C.D. 1.

Senators Graulty, Matsunaga, Matsuura, McCartney.
Managers on the part of the Senate.

Senator Anderson did not sign the report.

Representatives Tom, Herkes, Saiki, White, Yoshinaga, Kawananaoka.
Managers on the part of the House.

Conf. Com. Rep. No. 31 on H.B. No. 3350

The purpose of this bill is to allow for a court-approved agreement for the direct payment of child support between parents when federal or state assistance is not involved in supporting the family as an exemption to income withholding requirements to ensure support payments.

Your Committee on Conference has amended this bill by:

- (1) Clarifying reference to public assistance to include all the relevant federal and state programs;
- (2) Conforming references to the non-custodial parent as the obligor parent, and the subject children as the subject dependents; and
- (3) Deleting the clear and convincing standard of proof and requiring only the burden of proving that child support payments were made by presenting written evidence when the obligor parent alleges direct payment after being notified of the change of payee.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3350, 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. 3350, H.D. 1, S.D. 1, C.D. 1.

Senators Graulty, Matsunaga, Matsuura, McCartney, Anderson.
Managers on the part of the Senate.

Representatives Tom, Herkes, White, Yoshinaga, Kawananaoka.
Managers on the part of the House.

Conf. Com. Rep. No. 32 on H.B. No. 3596

The purpose of this bill is to change the method by which the chief election officer or the county clerk determines the winner in an election tie between candidates. Under the bill, if two or more candidates receive the same number of votes, the candidate who captures the most precincts is declared the winner. If two or more candidates capture an equal number of precincts, the candidate who receives the most votes in the precinct with the highest voter turnout is declared the winner.

Your Committee on Conference has amended this bill by:

- (1) Retaining the current election rate point system to determine the winner in an election tie but basing the method by which election rate points are calculated on voter turnout rather than on the number of registered voters; and
- (3) Adding a definition for "voter turnout".

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3596, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3596, S.D. 1, C.D. 1.

Senators Graulty, Matsunaga, McCartney, Tam, Anderson.
Managers on the part of the Senate.

Representatives Tom, Cachola, Hamakawa, White, Kawananaoka.
Managers on the part of the House.

Conf. Com. Rep. No. 33 on H.B. No. 3631

The purpose of this bill is to:

- (1) Allow the court to place the names of individuals who wilfully or without reasonable excuse fail to appear when summoned for jury service into the qualified jury wheel for further service in the following year, rather than allowing the term of service to expire;
- (2) Authorize the court to extend a juror's eligibility of service for the period of time between the first summons and the next summons for service, where a request for deferment is granted and the juror is not called for service in that year; and
- (3) Increase the current one-day or one-trial jury duty requirement to a two-day or one-trial requirement.

Your Committee on Conference has amended the bill by reinstating the one-day or one-trial jury duty requirement.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3631, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3631, S.D. 1, C.D. 1.

Senators Grauly, Chumbley, Matsunaga, McCartney, Anderson.
Managers on the part of the Senate.

Representatives Tom, Herkes, Swain, White, Kawanakoa.
Managers on the part of the House.

Conf. Com. Rep. No. 34 on H.B. No. 3653

The purpose of this bill is to:

- (1) Clarify the civil definition of "harassment" to include a single act of harassment in addition to a course of conduct of harassment;
- (2) Permit rather than require the court to enjoin further harassment of the petitioner for up to three years for a single incident of harassment, while requiring the court to enjoin further harassment where a course of conduct of harassment is established;
- (3) Prohibit repetitive telephone calls, facsimile, or electronic mail transmissions without purpose of legitimate communication; and
- (4) Delete the requirement that the recipient of various types of repeated communications be caused to reasonably believe that the the person responsible intends to cause bodily injury or property damage; and
- (5) Create a separate offense prohibiting a person from making a communication using offensively course language that would cause the recipient to reasonably believe that the actor intends to cause bodily injury or property damage.

Your Committee on Conference has amended this bill by:

- (1) Deleting the language that would lower the state of mind required to prove harassment as it would blur the distinction between the offense of harassment and that of disorderly conduct and also would unduly broaden the offense; and
- (2) Making technical, nonsubstantive revisions for purposes of style, clarity, and consistency.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3653, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3653, S.D. 1, C.D. 1.

Senators Grauly, Chumbley, Matsunaga, McCartney, Anderson.
Managers on the part of the Senate.

Representatives Tom, Saiki, White, Yamane, Kawanakoa.
Managers on the part of the House.

Conf. Com. Rep. No. 35 on H.B. No. 3666

The purpose of this bill is to permit any organization to bring a nuisance abatement suit and provide that the court can order the exclusion of the person causing the nuisance from the premises under certain conditions.

Your Committee on Conference has amended this bill by:

- (1) Allowing the abatement of a nuisance involving the manufacture of drugs as well as the distribution of drugs;
- (2) Making the language more consistent and comprehensive in referring to "buildings" and "premises" in addition to a "place";
- (3) Referring to a "person or persons" where applicable; and
- (4) 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. 3666, 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. 3666, H.D. 1, S.D. 1, C.D. 1.

Senators Grauly, Matsunaga, Matsuura, McCartney, Anderson.
Managers on the part of the Senate.

Representatives Tom, Saiki, White, Yamane, Kawanakoa.
Managers on the part of the House.

Conf. Com. Rep. No. 36 on H.B. No. 2726

The purpose of this bill is to:

- (1) Allow the Auditor to maintain the confidentiality of the Auditor's working papers;
- (2) Impose requirements on measures submitted for the Auditor's review; and
- (3) Allow the Auditor to employ or retain attorneys.

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

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2726, 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. 2726, H.D. 2, S.D. 2, C.D. 1.

Senators Ikeda, Grauly, Kawamoto, Taniguchi, Liu.
Managers on the part of the Senate.

Representatives Kanoho, Tom, Menor, Say, Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 37 on H.B. No. 3432

The purpose of this bill is to clarify the Department of Education's (DOE) authority to revoke any certificate after its issuance if the certificate holder does not possess the requisite qualifications.

This bill also:

- (1) Allows the DOE to disclose pertinent information about the former certificate holder for the purpose of exchanging information with other national or state teacher certification agencies; and
- (2) Provides that a person who serves as a teacher without an unrevoked certificate and who is not paid under the salary schedule contained in the Unit 5 collective bargaining agreement will be fined not more than \$500.

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

- (1) Deleting references to H.B. No. 3252; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity and consistency.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3432, 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. 3432, H.D. 1, S.D. 2, C.D. 1.

Senators Ikeda, Chumbley, Kanno, Tanaka, Liu.
Managers on the part of the Senate.

Representatives Stegmaier, Tom, Kawakami, Kahikina, Anderson.
Managers on the part of the House.

Conf. Com. Rep. No. 38 on H.B. No. 3563

The purpose of this bill is to allow the Department of Taxation to charge fees to recover the administrative costs of providing certain services to the public.

Your Committee on Conference has amended the bill by adding an authorization for the Department of Taxation to charge and add a fee for the re-issuance of refund checks to taxpayers, provided that no fee shall be charged if the amount of the refund check is less than the fee.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3563, 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. 3563, H.D. 1, S.D. 1, C.D. 1.

Senators Ikeda, Baker, Kawamoto, Taniguchi, Liu.

Managers on the part of the Senate.

Representatives Say, Kanoho, Kawakami, Suzuki, Marumoto.
Managers on the part of the House.

Conf. Com. Rep. No. 39 on H.B. No. 1148

The purpose of this bill is to optimize public resources devoted to agriculture by:

- (1) Abolishing the Governor's Agriculture Coordinating Committee (GACC); and
- (2) Transferring GACC's powers, functions, funds, and other personal property to the Agribusiness Development Corporation (Corporation).

This bill also increases the membership of the Board of Agriculture (BOA) from eight to nine members to include the Dean of the University of Hawaii College of Tropical Agriculture and Human Resources.

Your Committee believes that the transfer from GACC to the Corporation should be conducted in a sound, prudent, and efficient manner to ensure that agricultural interests and needs are maintained. Therefore, your Committee has amended this bill by:

- (1) Transferring the GACC's powers, functions, funds, and other personal property to the BOA, and then to the Corporation upon completion and approval of the Hawaii Agribusiness Plan by the Corporation Board;
- (2) Increasing the membership of the BOA from eight to ten members, rather than nine members, to include the Director of Business, Economic Development, and Tourism, as well as the Dean of the College of Tropical Agriculture and Human Resources;
- (3) Making the Dean of the College of Tropical Agriculture and Human Resources an ex officio voting member of the BOA;
- (4) Requiring that with respect to agricultural development, the Department of Business, Economic Development, and Tourism's activities are to be consistent with the policies, programs, and activities of the BOA as well as the Corporation;
- (5) Creating a program ID within the Department of Agriculture for agricultural research, marketing, and promotion;
- (6) Requiring the BOA Chairperson to:
 - (a) Expedite all projects of the GACC, especially emergency actions; and
 - (b) Submit a report to the Legislature prior to the 1997 Regular Session on the transfer;
- (7) Authorizing the BOA to transfer funds between appropriations as it deems necessary;
- (8) Eliminating the statutory provision stating the powers and duties of the GACC in chapter 163D, which relates to the Corporation;
- (9) Repealing the requirement that subjects all contracts, grants, and other monetary awards administered by GACC to BOA review; and
- (10) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1148, 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. 1148, H.D. 2, S.D. 2, C.D. 1.

Senators Ikeda, Kanno, Liu.
Managers on the part of the Senate.

Representatives Morihara, Say, Kanoho, Swain, Halford.
Managers on the part of the House.

Conf. Com. Rep. No. 40 on H.B. No. 4131

The purpose of this bill is to address the State's current depressed financial condition and the anticipated federal and state program restrictions while reforming the present welfare system by creating opportunities and incentives for able-bodied persons to participate in training and work activities.

Specifically, this bill does the following:

- (1) Increase the asset disregard in the calculation of assistance payments to applicants or recipients from \$1,000 to \$5,000 and the value of one motor vehicle;
- (2) Require the Department of Human Services (DHS), in determining the needs of an applicant or recipient for public assistance, to disregard:

- (A) Twenty percent of the applicant's or recipient's gross earned income, plus \$200; and
- (B) A percentage of the remaining balance of earned income;
- to be consistent with federal law;
- (3) Establish the assistance allowance for exempt households at sixty-two and one-half per cent of the standard of need;
- (4) Provide a definition for "exempt household";
- (5) Establish the assistance allowance for non-exempt households at a level somewhere between fifty and sixty-two and one-half per cent of the standard of need; and
- (6) Provide the DHS the flexibility to reduce the assistance allowance for non-exempt households for the purpose of providing work incentives or services.

Your Committee has amended this bill by:

- (1) Adding a sunset date of June 30, 1998; and
- (2) Making technical, nonsubstantive revisions for purposes of style, clarity, and consistency.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 4131, H.D. 3, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 4131, H.D. 3, S.D. 2, C.D. 1.

Senators Ikeda, Matsuura, Kanno, Baker, Kawamoto, Solomon, Liu.
Managers on the part of the Senate.

Representatives Chun Oakland, Tom, Say, Arakaki, Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 41 on H.B. No. 3421

The purpose of this bill is to ensure that the Cable Television Division (Division) of the Department of Commerce and Consumer Affairs has adequate staff to carry out its mandate under the Cable Television Systems law by authorizing the Director of Commerce and Consumer Affairs to appoint technical staff, including attorneys, without regard to the Civil Service Law and the Compensation Law.

Your Committee on Conference finds that because cable communications technology continues to develop and evolve rapidly, additional technical staff is necessary for the Division to carry out its duties properly and effectively. This bill would provide the Division with the necessary additional staff.

Your Committee on Conference has amended the bill by deleting the section relating to the employment of attorneys as your Committee has been informed that the Division was advised by the Department of the Attorney General that this section is not necessary.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3421, 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. 3421, H.D. 2, S.D. 2, C.D. 1.

Senators Ikeda, Fukunaga, Holt, Ihara, Iwase Anderson.
Managers on the part of the Senate.

Representatives Menor, Tom, Kawakami, White, Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 42 on H.B. No. 3534

The purpose of this bill is to improve and coordinate commercial harbor enforcement programs by transferring all powers, functions, and duties of the Harbor Patrol Program from the Department of Public Safety to the Department of Transportation.

Your Committee has amended this bill by making technical, nonsubstantive amendments for purposes of clarity and consistency.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3534, 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. 3534, H.D. 2, S.D. 2, C.D. 1.

Senators Ikeda, Graulty, Iwase, Holt, Liu.
Managers on the part of the Senate.

Representatives Santiago, Say, Tom, Tarnas, Anderson.

Managers on the part of the House.

Conf. Com. Rep. No. 43 on H.B. No. 3341

The purpose of this bill, as received, is to minimize salary overpayments by authorizing the Governor to convert the payroll payment basis for state employees from the current predicted payroll to after-the-fact payroll over a two-year period.

The bill also requires the Department of Human Resources Development to assist public employees who experience financial hardship as a result of the payroll conversion. The employees are to receive reasonable notice of a payroll lag following the approval of this bill. It is the intent of your Committee on Conference for the payroll lag to commence on January 1, 1997.

Your Committee has amended this measure by:

- (1) Providing that the payroll conversion occur during a one-year, instead of a two-year, period; and
- (2) Making a technical, nonsubstantive revision.

Your Committee wishes to clarify that the payroll lag will take course over the period of one year, and not one month.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3341, 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. 3341, H.D. 2, S.D. 2, C.D. 1.

Senators Ikeda, Kanno, Baker, Solomon, Taniguchi.
Managers on the part of the Senate.

Representatives Yonamine, Say, Nakasone, Suzuki, Marumoto.
Managers on the part of the House.

Conf. Com. Rep. No. 44 on H.B. No. 2514

The purpose of this bill is to transfer the administration of the School-to-Work Transition Program (Program) from the Department of Labor and Industrial Relations to the Department of Education.

Your Committee on Conference is assured by the Departments of Labor and Industrial Relations and Education that the transfer of the Program also requires the transfer of the employees currently working in the Program.

Upon careful consideration, your Committee on Conference has amended this measure by:

- (1) Clarifying that the Program is established within the Department of Education;
- (2) Clarifying that the Program is to provide for the continued delivery of integrated services directed at assisting high school students toward successfully completing their transition from school to work, or to further their training and education; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity and consistency.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2514, H.D. 3, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2514, H.D. 3, S.D. 2, C.D. 1.

Senators Ikeda, Chumbley, Kanno, Kawamoto, Anderson.
Managers on the part of the Senate.

Representatives Stegmaier, Kawakami, Yonamine, Abinsay, Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 45 on H.B. No. 3439

The purpose of this bill is to provide emergency funding for school electricity payments of the Department of Education (DOE).

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

- (1) Inserting \$1,284,156 as the amount to be appropriated for school electricity payments of the DOE; and
- (2) Deleting the section declaring the amount and percentage by which the appropriation will exceed the general fund expenditure ceiling.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3439, 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. 3439, H.D. 1, S.D. 1, C.D. 1.

Senators Ikeda, Chumbley, Baker, Kawamoto, Liu.

Managers on the part of the Senate.

Representatives Stegmaier, Say, Kawakami, Tarnas, Halford.
Managers on the part of the House.

Conf. Com. Rep. No. 46 on H.B. No. 3293

The purpose of this bill is to direct the Department of Land and Natural Resources (DLNR) to conduct a comprehensive review of the provisions of chapter 171, Hawaii Revised Statutes (HRS), in order to address various problems faced by lessees of state lands.

Specifically, this bill requires the DLNR to:

- (1) Conduct public hearings in each county of the State to determine the concerns and problems faced by all lessees under chapter 171, HRS;
- (2) Submit a status report to the 1997 Legislature and a final report to the 1998 Legislature; and
- (3) Make appropriate amendments to administrative rules to address the problems and concerns identified.

In addition, this bill authorizes the DLNR to hire a consultant to assist in the review.

Your Committee has amended this bill by appropriating \$150,000 out of the Special Land and Development Fund to finance the review.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3293, 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. 3293, H.D. 1, S.D. 1, C.D. 1.

Senators Ikeda, Iwase, Kanno, Holt, Anderson.
Managers on the part of the Senate.

Representatives Nekoba, Say, M. Oshiro, Tarnas, Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 47 on H.B. No. 3711

The purpose of this bill as received is to raise the insurers' premium taxes on various types of insurance contracts, and to change the basis upon which tax credits are granted to local insurers against their premium taxes.

Your Committee finds that nonresident agents or brokers, although not currently required to take the State's insurance examination, must comply with the law that places limitations on their activities with respect to placing insurance on a subject of insurance located in Hawaii. Because of the restrictive nature, these limitations virtually prevent nonresident agents or brokers from engaging in business in Hawaii. Consequently, under the reciprocity agreements between states, Hawaii's insurance agents and brokers are restricted in engaging in business in other states where they are nonresidents.

Your Committee has therefore amended this bill by deleting its substance and inserting provisions amending section 431:9-221, Hawaii Revised Statutes (HRS). These amendments repeal certain restrictions governing nonresident insurance agents and brokers in Hawaii, and provide additional qualifying requirements.

In particular, these provisions amend section 431:9-221, HRS, by:

- (1) Deleting the requirement that the insured must not be domiciled within this State or must be a foreign corporation;
- (2) Deleting the requirement that negotiations between the nonresident agent or broker and the insured must have taken place outside this State;
- (3) Adding the requirement that the person applying for a nonresident agent or broker license must pass an examination given by the Insurance Commissioner; and
- (4) Adding the requirement that the person applying for a nonresident agent or broker license must submit a statement evidencing that the applicant is currently licensed as an agent or broker in the applicant's state of residence.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3711, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3711, S.D. 2, C.D. 1.

Senators Ikeda, Holt, Iwase, Liu.
Managers on the part of the Senate.

Representatives Menor, Say, Cachola, Kawakami, Yamane, Marumoto.
Managers on the part of the House.

Conf. Com. Rep. No. 48 on H.B. No. 3423

The purpose of this bill is to authorize the Director of Commerce and Consumer Affairs to establish a trust fund for administering fees and costs associated with the state certified Arbitration Program (Program) under the Motor Vehicle Express Warranty Enforcement law, also known as the "Lemon Law".

The Program under the "Lemon Law" handles disputes between consumers and manufacturers over defective new motor vehicles. In the past, the Program was run by an independent contractor. Recently however, the Department of Commerce and Consumer Affairs (DCCA) has assumed the responsibility of administering the Program. Presently, DCCA is using a temporary clearing account to handle the particular needs of the Program. Your Committee on Conference believes that the trust fund authorized by this bill is an appropriate tool for DCCA to utilize to administer the Program.

Your Committee on Conference has amended the bill by:

- (1) Changing the effective date to upon approval; and
- (2) Making technical, nonsubstantive revisions for purposes of style, clarity, and consistency.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3423, 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. 3423, H.D. 1, S.D. 1, C.D. 1.

Senators Ikeda, Holt, Iwase, Liu,
Managers on the part of the Senate.

Representatives Menor, Kawakami, M. Oshiro, Yoshinaga, Ward,
Managers on the part of the House.

Conf. Com. Rep. No. 49 on H.B. No. 3427

The purpose of this bill is to include property and casualty insurers within the regulatory requirements for risk-based capital of life and health insurers.

Risk-based capital provides a flexible means for setting the capital requirements of insurance companies. Establishing the capital requirements is accomplished through an assessment of risk-based capital, utilizing a formula which considers investments and other financial risks incurred by the insurance companies. This differs from the system of fixed minimum capital and surplus requirements which are not affected by increased investments and other risks of the insurance companies.

Regulating risk-based capital of insurance companies provides a disclosure and monitoring mechanism for the Insurance Division of the Department of Commerce and Consumer Affairs to initiate regulatory actions against companies showing signs of weak or deteriorating financial conditions.

Among its provisions, this bill would provide that an insurer may challenge a determination or action by the Insurance Commissioner. With consideration for the confidential information which may be divulged at an administrative hearing, the insurer may obtain a confidential hearing on the record. This provision would enable a party to request that attendance at a hearing be restricted to parties involved in the issues of contention and the confidentiality of records is preserved, as provided by this bill and any applicable current statute.

Additionally, this bill's provisions in applying the risk-based capital standards to property and casualty companies will, in part, enable Hawaii to meet certain accreditation requirements established by the National Association of Insurance Commissioners.

Your Committee on Conference has amended this bill to change the effective date to take effect upon the Act's approval, and to make technical, nonsubstantive amendments for style, clarity, and consistency.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3427, 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. 3427, H.D. 2, S.D. 1, C.D. 1.

Senators Ikeda, Holt, Iwase, Anderson,
Managers on the part of the Senate.

Representatives Menor, Tom, Kawakami, M. Oshiro, Thielen,
Managers on the part of the House.

Conf. Com. Rep. No. 50 on H.B. No. 3101

The purposes of this bill are to establish biennial registration periods for condominium managing agents and associations of apartment owners, and to make various housekeeping amendments to Chapter 514A, Hawaii Revised Statutes, for purposes of clarity and conformity.

Currently, condominium managing agents and associations of apartment owners are required to register with the Department of Commerce and Consumer Affairs (DCCA) on an annual calendar year basis. Amending the law to provide for a biennial fiscal year-based registration will bring the managing agents' and associations' registration renewal cycles into alignment with the registration renewal cycle of real estate brokers. Conforming these various renewal cycles will allow DCCA to operate more efficiently, and result in time and resource savings for the department and the registrants.

Upon careful consideration, your Committee on Conference has amended the bill by:

- (1) Adding a provision establishing that for purposes of a biennial registration or re-registration, the fees for re-registration, the compliance resolution fund, and the condominium management education fund, shall not exceed twice the existing annual fee amounts; and
- (2) Making technical, nonsubstantive amendments for purposes of style, clarity, and consistency.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3101, 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. 3101, H.D. 2, S.D. 2, C.D. 1.

Senators Ikeda, Bunda, Holt, Taniguchi, Liu.
Managers on the part of the Senate.

Representatives Menor, Tom, Kawakami, Yamane, Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 51 on S.B. No. 2211

The purpose of this bill is to propose an amendment to article VII, section 11, of the state constitution to allow commitments from the state educational facilities improvement special fund to be made for periods exceeding three years to allow for qualified design-build contracts.

Your Committee has amended this bill by:

- (1) Specifying that appropriations (rather than commitments) may be made for the foregoing purpose;
- (2) Allowing appropriations from the state educational facilities improvement special fund to extend beyond three years for constructing or acquiring public school facilities; and
- (3) Making technical nonsubstantive changes for purposes of clarity, consistency, and style.

It is your Committee's intent that a broad application of this bill be considered when extending appropriations for the construction or acquisition of public school facilities to include long-term leases, lease-purchase agreements, qualified design-build contracts, and other arrangements that would allow for the provision of public school facilities.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2211, 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. 2211, S.D. 2, H.D. 2, C.D. 1.

Senators Baker, Chumbley, Kawamoto, Taniguchi, Liu.
Managers on the part of the Senate.

Senator Ikeda did not sign the report.

Representatives Say, Tom, Stegmaier, Marumoto.
Managers on the part of the House.

Conf. Com. Rep. No. 52 on S.B. No. 3091

The purpose of this bill is to propose an amendment to article VII, section 11, of the Hawai'i Constitution to remove the exemption that permanently prevents the lapsing of unencumbered general obligation bond funds that are deemed necessary to qualify for federal aid financing and reimbursement.

Your Committee finds that this proposed amendment will provide more certainty in capital financial planning, and more flexibility in addressing changing statewide funding priorities.

Your Committee has amended this bill by deleting the purpose section and renumbering the other sections accordingly.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 3091, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 3091, H.D. 1, C.D. 1.

Senators Baker, Kawamoto, Taniguchi, Liu.
Managers on the part of the Senate.

Senator Ikeda did not sign the report.

Representatives Say, Tom, White, Marumoto.
Managers on the part of the House.

Representative Kawakami did not sign the report.

Conf. Com. Rep. No. 53 on S.B. No. 3170

The purpose of this bill is to assist certain Waimanalo farmers who were unable to obtain long-term leases under Act 237, Session Laws of Hawaii 1988 (Act 237), by authorizing the Department of Land and Natural Resources (DLNR) to negotiate long-term leases with these individuals.

The bill also directs the DLNR to cooperate with land use reclassification activities initiated by those permittees on nonagriculturally-zoned lands to facilitate the conversion of their lands from nonagricultural to agricultural use.

Your Committee finds that Act 237 authorized the DLNR to enter into lease negotiations with revocable permittees on state-owned agricultural lands so that the permittees would be able to establish long-term land tenure, thereby allowing the permittees to secure financing for farm productivity enhancement.

However, Act 237 did not extend the opportunity to enter into long-term leases with the Department of Land and Natural Resources to those Waimanalo permittees who, through no fault of their own, were farming on nonagriculturally-zoned land. Additionally, certain permittees who did possess a revocable permit for agriculturally-zoned land and who applied for long-term leases under Act 237, were subsequently denied approval due to filing discrepancies.

Your Committee believes that the exclusion of these permittees was not part of the intent of Act 237 and that these permittees should be afforded the opportunity to obtain long-term leases from the State.

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

- (1) Reformatting the bill to delete the division of the bill into parts and any references thereto;
- (2) Requiring, rather than permitting, the DLNR to enter into long-term lease negotiations with qualified revocable permittees in the Waimanalo area;
- (3) Removing the provision that mandates the rezoning of nonagriculturally-zoned lands in the Waimanalo area subject to Act 237, Session Laws of Hawaii 1988, to agricultural; and
- (4) Making technical amendments that have no substantive effect.

Your Committee believes that the amendments made to the bill:

- (1) More efficiently address the concerns of the permittees;
- (2) Are in the public interest to assist the permittees who depend on farming the state land for a livelihood; and
- (3) Are consistent with the objectives of the Hawaii State Plan.

Your Committee also believes that the State would realize greater returns from the long-term disposition of lands now under permit.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 3170, 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. 3170, S.D. 1, H.D. 2, C.D. 1.

Senators Kanno, Iwase, Anderson.
Managers on the part of the Senate.

Representatives Swain, Nekoba, Say, Takai, Halford.
Managers on the part of the House.

Conf. Com. Rep. No. 54 on S.B. No. 3079

Your Committee on Conference finds that the purpose of this bill is to authorize the Department of Business, Economic Development, and Tourism (DBEDT) to reestablish the Employee Ownership and Participation Program which supports and encourages expanded opportunities for employee ownership and participation in business.

Your Committee on Conference notes that this bill is a reenactment of the substance of Chapter 213E, Hawaii Revised Statutes, which was repealed in 1993 when its sunset provision was not extended by the Legislature. There are, however, several differences between this bill and Chapter 213E; specifically, the deletion in this bill of the provision allowing DBEDT to employ individuals without regard to Chapters 76 and 77, Hawaii Revised Statutes, and the provision in this bill allowing, instead of requiring, each state agency involved in economic development and regulatory activities to report annually to the Legislature.

Your Committee on Conference has therefore amended Section 1 of this measure by clarifying that only the substance of Chapter 213E as of the date it was repealed is being reenacted in this bill.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 3079, 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. 3079, S.D. 1, H.D. 1, C.D. 1.

Senators Matsunaga, Kanno, Ige.
Managers on the part of the Senate.

Representatives Yonamine, Say, Case, Jones, Ward.

Managers on the part of the House.

Conf. Com. Rep. No. 55 on S.B. No. 2003

The purpose of this bill is to establish a state preemption law for family child care.

Specifically, the bill:

- (1) Designates family child care homes as a permitted use in all residentially designated zones and prohibits any requirement that residences used as family child care homes obtain conditional use permits, variances, or special exceptions; and
- (2) Provides that family child care homes are not subject to recorded restrictions or prohibitions contained in covenants, conditions upon use or occupancy, or upon transfer of title.

Your Committees find that the provision of child care homes in normal residential surroundings provide children with a home environment conducive to their healthy and safe development.

The care of our children and the provision of safe, healthy and loving child care is a matter of statewide concern. It is a reality today that for many families, both parents must work. Thus, the need for child care is critical, especially for infants who are often excluded from facilities such as day-care centers and pre-schools because they are too young. As a result, child care in residential settings are often the sole alternative for working parents. These homes have long provided a safe and loving environment which an infant needs, and which working parents seek.

Your Committee notes that concerns were raised by individuals representing various associations of apartment owners regarding liability issues relating to common elements which are owned or controlled by the association. Specifically, concerns were raised over tort liability and with the Americans with Disabilities Act as they relate to the establishment of family child care homes in condominium projects. Your Committee agrees that these are serious and legitimate issues which must be addressed. Your Committee also notes that these issues may also apply to limited-equity housing cooperatives, cooperative housing corporations, and townhouse projects which are similar to condominium property regimes.

In response to these concerns, your Committee believes that the measure's limited scope of application to residential properties addresses the unresolved concerns involving issues such as constitutional violations, insurance costs, personal injury liability, and the Americans With Disabilities Act (ADA). Accordingly, this measure does not require that family child care homes be considered a residential use for the following:

- (1) Housing for older persons;
- (2) Limited-equity housing cooperatives;
- (3) Cooperative housing corporations;
- (4) Condominium property regimes; and
- (5) Certain townhouse projects.

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

- (1) Clarifying the meaning of "townhouse projects" by stating that a "townhouse project" is a series of three or more individual dwelling units having architectural unity and a common wall between each adjacent unit and in which the owners of the units are members of an association which is responsible for common areas available for use by the members of the association;
- (2) Deleting the People Attentive To Children, the Good Beginnings Alliance, the Horizontal Property Regime Blue Ribbon Panel, and parents and family care providers from the group mandated to collaboratively submit a report to the Legislature prior to the 1997 Regular Session that addresses the issues of tort liability, the Americans with Disabilities Act, and constitutional concerns as they may relate to the establishment of family child care homes in limited-equity housing cooperatives, cooperative housing corporations, condominium property regimes, and townhouse projects, and whether the general provisions of this bill should be extended to limited-equity housing cooperatives, cooperative housing corporations, condominium property regimes, and townhouse projects; and
- (3) Deleting the provision that requires the abovementioned group to address by-law amendment procedures and whether child safety may be compromised in family child care homes as defined under the bill.

Your Committee believes that the amended measure ameliorates many of the concerns raised by the various interest groups who participated in seeking a workable solution to a pressing statewide concern.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2003, 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. 2003, S.D. 1, H.D. 2, C.D. 1.

Senators Iwase, Bunda, Ige, Ihara, Anderson.
Managers on the part of the Senate.

Representatives Chun Oakland, Nekoba, Menor, Saiki, Kawanakoa.

Managers on the part of the House.

Conf. Com. Rep. No. 56 on S.B. No. 608

The purpose of this bill is to approve a land exchange between the State and the Estate of James Campbell involving approximately 183 acres of land in Kapolei, Oahu.

Your Committee has amended the bill by making technical amendments to properly identify the lands to be exchanged.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 608, 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. 608, S.D. 2, H.D. 2, C.D. 1.

Senators Iwase, Ikeda, Ige, Kawamoto, Anderson.
Managers on the part of the Senate.

Representatives Takamine, Lee, Say, Ito, Takai, Tarnas, Halford.
Managers on the part of the House.

Conf. Com. Rep. No. 57 on S.B. No. 2220

The purpose of this bill is to permit families to register their property with the Department of Health (DOH) and to bury family members on the property if they have existing family burial plots. In particular the bill:

- (1) Permits owners of residential or agricultural property on which a family member has already been lawfully interred to register the property with the DOH as a family burial plot;
- (2) Permit additional family members, including hanai family members, to be buried in family burial plots registered with the DOH;
- (3) Require that any subsequent disinterment of any remains from a family burial plot be done in compliance with section 338-25.5, Hawaii Revised Statutes (HRS);
- (4) Insert the definition of "family burial plot" into section 441-1, HRS;
- (5) Revise the definition of "interment" in section 441-1, HRS, to include the disposition of human remains in a family burial plot; and
- (6) Exclude property on which there are family burial plots from the exemption from public improvement assessments granted to cemetery property.

Your Committee finds that restriction of family burial plots to property where such plots are already in existence is too narrow in light of testimony by DOH that there are no public health concerns. The bill has been amended by deleting sections one through three of the bill and substituting therefore sections one and two of the S.D. 1 version of the bill. The bill sections were renumbered accordingly. This will allow owners of residential or agricultural property to use their property for the interment of family members regardless of whether there are existing burial plots on the property. The amendment also deletes unnecessary registration with the department of health.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2220, 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. 2220, S.D. 1, H.D. 1, C.D. 1.

Senators Fernandes Salling, Levin, Taniguchi, Anderson.
Managers on the part of the Senate.

Representatives Pepper, Kawakami, Saiki, Anderson.
Managers on the part of the House.

Conf. Com. Rep. No. 58 on S.B. No. 2998

The purpose of this bill is to repeal the restriction that a maximum of \$90,000 may be utilized for administration of the Environmental Health Program Enhancement and Education Fund during any fiscal year. This bill also extends the sunset date of the Fund from July 1, 1996 to July 1, 2000 and directs the Director of Health to transfer the balance remaining in the fund to the general fund on June 29, 2000, rather than prior to June 30, 2000.

Your Committee on Conference amended this bill as received by deleting its contents and inserting provisions directing the Department of Health to study and review state and federal environmental laws and to establish environmental goals and objectives.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2998, 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. 2998, S.D. 1, H.D. 2, C.D. 1.

Senators Tam, Aki, Ikeda.
Managers on the part of the Senate.

Representatives Shon, Say, Abinsay, Santiago, Ward.

Managers on the part of the House.

Conf. Com. Rep. No. 59 on S.B. No. 1602

The purpose of this bill is to require armed security services personnel at State airports to undergo criminal history record checks conducted by the Federal Bureau of Investigation.

Additionally, this bill requires such personnel to submit sworn statements to the Department of Transportation regarding the existence of any prior criminal convictions. This bill also authorizes the Hawaii Criminal Justice Data Center to assess fees against providers of armed security services for the record checks.

Finally, this bill reenacts the definitions in section 261-1, Hawaii Revised Statutes. Except for removing the numbers of the definitions and defining the terms "criminal history record check" and "criminal history record information", the definitions are identical.

Your Committee has amended this bill by making some technical, nonsubstantive changes for the purposes of style and clarity.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1602, 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. 1602, S.D. 1, H.D. 1, C.D. 1.

Senators Grauly, Fernandes Salling, Chumbley, Tam, Anderson.
Managers on the part of the Senate.

Representatives Hiraki, Tom, Kawakami, Nakasone, Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 60 on S.B. No. 2124

The purpose of the bill is to clarify that the prosecuting attorney shall have the right to be represented at the initial parole hearing and all subsequent parole hearings.

Additionally, the bill provides that the prosecuting attorney shall receive sixty days notice prior to the HPA reducing minimum terms of imprisonment, and shall also receive sixty days notice prior to the HPA reconsidering or rehearing parole cases.

Current law is unclear whether the prosecuting attorney has the right to be represented at the initial parole hearing and all subsequent hearings. The bill clarifies that the prosecuting attorney has the right to be represented at all such hearings.

Current law is also unclear whether the prosecuting attorney is entitled to notice of any sort prior to the HPA reducing minimum terms of imprisonment, or prior to reconsidering or rehearing parole cases. The bill also clarifies that the prosecuting attorney is entitled to notice for these hearings.

Your Committee finds that sixty days notice for the prosecuting attorney is sufficient notice prior to the HPA reducing a minimum term of imprisonment; however, your Committee finds that reasonable notice is the appropriate notice to the prosecuting attorney prior to the HPA reconsidering or rehearing parole cases.

Accordingly, the bill was amended by providing for reasonable notice prior to the HPA reducing a minimum term of imprisonment.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2124, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2124, H.D. 1, C.D. 1.

Senators Grauly, Chumbley, Matsuura, Anderson.
Managers on the part of the Senate.

Representatives McMurdo, Tom, Case, Hamakawa, Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 61 on S.B. No. 2186

The purpose of the bill is to revise the definition of "owner" and to revise the affirmative defense for the offense of unauthorized control of a propelled vehicle.

Your Committee has amended the definition of "owner" to mean the registered owner of the propelled vehicle or the unrecorded owner of the vehicle pending transfer of ownership.

Your Committee amended the affirmative defense by:

- (1) Providing an affirmative defense to a person who received authorization to use the vehicle from an agent of the owner; and
- (2) Providing an affirmative defense to a lien holder or legal owner, or their authorized agent, engaged in a repossession of the vehicle.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2186, 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. 2186, S.D. 1, H.D. 1, C.D. 1.

Senators Gaulty, Chumbley, Matsunaga, McCartney.
Managers on the part of the Senate.

Representatives Tom, Swain, White, Yamane, Kawananaoka.
Managers on the part of the House.

Conf. Com. Rep. No. 62 on S.B. No. 3248

The purpose of this bill is to amend the laws relating to commercial use and operator permits issued for commercial water sledding, thrill craft, and parasailing activities within the State.

Specifically, the bill:

- (1) Makes all commercial use and operator permits for commercial water sledding, thrill craft, and parasailing activities transferable upon payment of a business transfer fee of not more than ten percent of the transfer price;
- (2) Restricts the ability to transfer a commercial use and operator permit to once every two years;
- (3) Authorizes the Department of Land and Natural Resources (DLNR) to immediately revoke a commercial use permit without a hearing for any activity that may endanger the health or safety of passengers or the public;
- (4) Provides the permit holder the opportunity to request an administrative hearing to contest the basis for the suspension or revocation of the permit;
- (5) Requires all new commercial water sledding, thrill craft, and parasailing permits be issued at public auction;
- (6) Provides that all commercial use and operator permits for commercial water sledding, thrill craft, and parasailing activities be valid for five years from the issuance date and be renewed for additional five year periods, up to a total of twenty years;
- (7) Requires the DLNR to annually review commercial use and operator permit holders' compliance with applicable departmental rules, tax laws, and safety records;
- (8) Authorizes DLNR to adopt rules encouraging water safety education and programs relating to water sledding activities; and
- (9) Deletes inconsistent provisions that restrict the transfer of permits relating to operations in Kaneohe Bay.

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

- (1) Deleting all references to commercial water sledding permits;
- (2) Removing the restriction that only allows corporations and other business entities to have the ability to transfer commercial use and operator permits;
- (3) Amending the rate of the business transfer fee to be no less than ten percent of the transfer price, rather than no more than ten percent;
- (4) Requiring rather than permitting, the DLNR to adopt rules to promote thrill craft and parasailing water safety and education programs;
- (5) Lowering the maximum time period a permit holder can retain a commercial use and operator permit to two five year terms (ten years);
- (6) Requiring that after the ten year maximum permit cycle has tolled, the permit may be offered for public auction; provided that the previous permit holder shall have the right of first refusal; and provided further that the permit holder shall also match the highest bid offered at the public auction; and
- (7) Deleting the amendment to section 200-39, Hawaii Revised Statutes, that would make the provisions of this bill applicable to commercial use and operator permits issued by the DLNR in the Kaneohe Bay Area; and
- (8) Adding a section that states that upon the sunset of section 200-39, Hawaii Revised Statutes, on July 1, 1998, the provisions of Chapter 200, Hawaii Revised Statutes, shall apply to all commercial use and operator permits issued by the DLNR in the Kaneohe Bay Area.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 3248, 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. 3248, S.D. 2, H.D. 2, C.D. 1.

Senators Iwase, Matsunaga, Holt, Anderson.
Managers on the part of the Senate.

Representatives Santiago, Say, Abinsay, Garcia, Anderson.
Managers on the part of the House.

Representative Anderson did not concur.

Conf. Com. Rep. No. 63 on S.B. No. 2888

The purpose of this bill is to extend from 1996 to 1999 the authority of the Department of Public Safety to release pretrial inmates on an emergency basis.

The bill also makes conforming changes to the department's reporting requirements to the Legislature concerning the progress of the program and the recidivism rates of pretrial inmates released under the program.

According to the Attorney General, the emergency release program is a key element of the management strategy of the Oahu Community Correctional Center and the Women's Community Correctional Center, whose populations are limited by the *Spear v. Cayetano* consent decree, and thus is necessary to assist in population management during this period of severe prison overcrowding.

Furthermore, your Committee notes that the findings of the National Pretrial Reporting Program (NPRP) conducted by the United States Bureau of Justice Statistics support the overall practice of releasing some felony defendants prior to trial. The NPRP found that most Hawaii pretrial detainees released prior to trial were not rearrested during their release and that, of those rearrested, few were charged with a violent offense. Accordingly, your Committee finds that the exigencies arising from the cumulative effect of the crime rate, consent decree, and the State's present general fund shortfall force the State to provide the executive branch the means to manage its responsibilities in a clear and effective manner that will not unduly compromise public safety.

Upon further consideration, your Committee has amended this bill by changing the date to which authority to release pretrial inmates is being extended from 1999 to 1998.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2888, 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. 2888, S.D. 1, H.D. 1, C.D. 1.

Senators Grauly, Matsunaga, Matsuura, McCartney, Anderson.
Managers on the part of the Senate.

Senator Anderson did not concur.

Representatives Tom, Chun Oakland, White, Yamane.
Managers on the part of the House.

Conf. Com. Rep. No. 64 on S.B. No. 2446

The purpose of this bill, as received by your Committee on Conference, is to recodify the Hawaii Revised Statutes to more clearly delineate recent reforms and policy directives that are reshaping the public school system in Hawaii.

Your Committee finds that recent legislative initiatives to reform the public education system have been focussed on enhancing student performance as well as increasing accountability for student achievement at the school-level. The legislature has mandated the adoption of statewide student performance standards, and provided for the creation at the school-level of alternative curriculum and administrative frameworks to encourage learning environments that are more focussed upon and responsive to students' needs. Your Committee further finds that in order to proceed with reshaping the public school system, the Hawaii Revised Statutes need to be reorganized to emphasize the legislature's intent to "put students first" in the reorganization and redesign of the public school system.

Upon further consideration, your Committee on Conference has amended this measure by:

- (1) Rewriting the preamble to clarify the legislature's intent in pursuing the recodification;
- (2) Deleting the obsolete salary schedules in sections -724 and -725 related to teachers and educational officers, respectively, and clarifying that these schedules are now subject to collective bargaining;
- (3) Inserting a provision in section -735 that clarifies the use of language related to certificated and noncertificated personnel;
- (4) Clarifying that the penal code provisions in Section 18 of the bill relate to both public and private schools; and
- (5) Making nonsubstantive, technical changes for the purposes of clarity and proper drafting style.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2446, 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. 2446, S.D. 1, H.D. 1, C.D. 1.

Senators Chumbley, Kawamoto, Matsunaga.
Managers on the part of the Senate.

Representatives Stegmaier, Morihara, Takai, Anderson.
Managers on the part of the House.

Conf. Com. Rep. No. 65 on S.B. No. 3021

The purpose of this bill, as received by your Committee on Conference, is to repeal various obsolete sections contained within the education title of the Hawaii Revised Statutes.

Your Committee finds that Act 168, Session Laws of Hawaii 1995, established an interim study group to review various chapters related to the public education system contained in Title 18 of the Hawaii Revised Statutes. Your Committee further finds that certain laws were identified by the study group as obsolete and therefore recommended for repeal. Most of these recommendations were incorporated into legislation introduced during the regular session of 1996 and will be repealed upon passage of such legislation.

Therefore, upon further consideration and based upon ongoing discussion during the legislative session, your Committee on Conference has deleted the contents of this measure because these provisions are contained in other measures and has inserted provisions repealing the school advisory councils. Your Committee on Conference notes that the school advisory councils preceded the school/community-based management councils which are now operating at most schools in all the school districts. Thus, the functions of the school advisory councils have been or will soon be replaced by the implementation of the school/community-based management councils.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 3021, 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. 3021, S.D. 1, H.D. 1, C.D. 1.

Senators Chumbley, Kawamoto, Matsunaga.
Managers on the part of the Senate.

Representatives Stegmaier, Kawakami, Kahikina, Morihara, Anderson.
Managers on the part of the House.

Conf. Com. Rep. No. 66 on S.B. No. 2380

The purpose of this bill, as received by your Committee on Conference, is to lower the age of compulsory school attendance from eighteen to sixteen, provided that the principal determines that the child's attendance is disruptive or hinders the child's learning and that an alternative educational plan is developed for the child.

Your Committee on Conference finds that principals, in consultation with school personnel, the child, and the child's parent or guardian, need to collaborate in order to determine the best possible alternative educational plan for a child who may not be able to learn within the traditional school environment. Your Committee further believes that as part of this collaborative effort, the child and the child's parent or guardian must be given a reasonable opportunity to participate in the development of any alternative educational plan, in order to assure the child's and parent's or guardian's commitment to and successful implementation of the plan.

Upon further consideration, your Committee on Conference has amended this measure by:

- (1) Indicating that the child must engage in behavior which is disruptive to other students, teachers, or staff;
- (2) Indicating that the child's non-attendance is chronic;
- (3) Deleting the provision allowing a designee of the principal of the child's school, or the child's teacher or counselor, to consult with the child and the child's parent or legal guardian in developing an alternative educational plan;
- (4) Requiring that the alternative educational plan include a process that shall permit the child to resume school;
- (5) Deleting the provision that a child shall not be prohibited from resuming school attendance based on procedures established by the principal of the child's school;
- (6) Inserting a provision directing the revisor of statutes to conform the provisions of this Act with any recodification of the education statutes; and
- (7) Changing the effective date to July 1, 1996.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2380, 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. 2380, S.D. 1, H.D. 2, C.D. 1.

Senators Chumbley, Grauly, Matsunaga, Matsuura, McCartney, Tam, Anderson.
Managers on the part of the Senate.

Representatives Stegmaier, Tom, Takai, Yamane, Anderson.
Managers on the part of the House.

Conf. Com. Rep. No. 67 on S.B. No. 2329

The purposes of this bill are to:

- (1) Provide for the repeal of chapter 467E, Hawaii Revised Statutes (HRS), relating to social workers, on December 31, 2000; and
- (2) Require that social worker license applicants who hold a masters degree from a college or university in a social work program be accredited by or deemed to be equivalent to an accredited program by the Council on Social Work Education.

Your Committee on Conference has amended this bill by:

- (1) Amending the law regulating the University of Hawaii's School of Medicine Special Residency Program to allow candidates for licensure as osteopathic physicians to participate in the residency program;
- (2) Amending the law regulating tattoo artists to allow osteopathic physicians to apply facial tattoos and administer injections in the application of tattoos in the same manner allowed physicians licensed under chapter 453, HRS;
- (3) Amending the definition of "practice of pharmacy" to include prescription of drug therapy by licensed osteopathic physicians; and
- (4) Amending section 466J-2, HRS, relating to the radiologic technology board to include two persons licensed to practice medicine pursuant to either chapter 453 or 460, HRS.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2329, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2329, H.D. 1, C.D. 1.

Senators Holt, Iwase, Anderson.
Managers on the part of the Senate.

Representatives Menor, Case, Swain, Yoshinaga, Meyer.
Managers on the part of the House.

Conf. Com. Rep. No. 68 on S.B. No. 2724

The purpose of this bill, as received by your Committee on Conference, is to permit interstate branching in Hawaii effective June 1, 1997. In particular, this bill:

- (1) Authorizes Hawaii state banks to establish and operate interstate branches by merger, acquisition, or de novo;
- (2) Authorizes out-of-state banks to establish and operate branches in Hawaii by merger, acquisition, or de novo, subject to restrictions;
- (3) Authorizes banking activities and operations of direct branch, agency, and representative offices in Hawaii by non-U.S. banks, generally under terms and conditions no less favorable than those applicable to comparable, federally-licensed branches and offices of non-U.S. banks in the United States; and
- (4) Establishes a statutory framework for the licensing, regulation, and supervision of interstate branches and offices.

Your Committee on Conference has amended this bill by:

- (1) Deleting from section 412: -104(b)(1), Hawaii Revised Statutes (HRS), the referenced time period "From June 1, 1997, to May 31, 2000";
- (2) Changing the title of section 412: -105, HRS, to "Prohibition of out-of-state banks to establish a de novo interstate branch or acquire an interstate branch", deleting all referenced dates in the body of that section, and providing that, in general, an out-of-state bank that does not operate a branch in this State may not establish a de novo branch or operate a branch in this State through acquisition;
- (3) Clarifying in section 412: -208(b)(1), HRS, that a Hawaii state branch of a bank organized in a U.S. territory, the deposits of which are insured by the Federal Deposit Insurance Corporation, shall not be subject to the limitation on domestic retail deposit taking;
- (4) Adding a new section 7 to this bill requiring the Commissioner of Financial Institutions to review the interstate branching laws adopted by other jurisdictions, determine whether certain restrictions contained in this measure should be continued, amended or repealed, and report to the Legislature prior to the 1997 Regular Session; and
- (5) Making several technical, nonsubstantive changes for purposes of style and clarity.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2724, 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. 2724, S.D. 1, H.D. 1, C.D. 1.

Senators Holt, Iwase, Anderson.
Managers on the part of the Senate.

Representatives Menor, Garcia, Swain, Yoshinaga, Meyer.

Managers on the part of the House.

Conf. Com. Rep. No. 69 on S.B. No. 3159

The purpose of this bill, as received by your Committee on Conference, is to establish the statutory authority of state-chartered banks, with the prior written approval of the Commissioner of Financial Institutions (Commissioner), and subject to any conditions imposed by the Commissioner, to:

- (1) Sell insurance and annuities;
- (2) Underwrite insurance; and
- (3) Sell and purchase securities on the order of and for the account of customers through the operations of a discount or full service brokerage.

Your Committee on Conference has amended this measure by:

- (1) Clarifying in section 412:5-A, Hawaii Revised Statutes (HRS), that:
 - (A) The authority to sell insurance and annuities is subject not only to any conditions imposed by the Commissioner, but also to the limitations set forth in that section and in section 412:5-B, HRS;
 - (B) Banks may also sell insurance through an independent insurance agent or agency under contract;
 - (C) The administration of Chapter 431, HRS, and any insurance administrative rules shall be vested with the insurance commissioner, and clarifying that insurance and annuity-related activities conducted within the State shall be governed by and comply with chapter 431, HRS, and any insurance administrative rules adopted thereunder;
 - (D) Upon receipt of the Commissioner's approval under this section, a bank shall obtain any necessary approvals required under Chapter 431, HRS, or other applicable jurisdictions where the bank will be conducting activities;
- (2) Deleting from subsections (a) and (b) of section 412:5-A, HRS, the reference to transacting insurance business directly or through a subsidiary or affiliate, and from subsection (b) language qualifying the extent that non-Hawaii law shall govern insurance and annuity-related activities of Hawaii banks conducted outside of the State;
- (3) Adding a new subsection (b) to section 412:5-B, HRS, authorizing a bank, subject to certain requirements, to sell insurance either directly in any department or division or through a subsidiary or affiliate;
- (4) Clarifying section 412:5-B, HRS, that a bank shall also obtain any necessary approvals required under any insurance administrative rules adopted under Chapter 431, HRS;
- (5) Providing in section 412:5-C, HRS, that:
 - (A) The authority to engage in securities activities is subject not only to any conditions imposed by the Commissioner, but also to the limitations set forth in that section, and clarifying the meanings of "security" and "investment companies";
 - (B) Administration of chapter 485, HRS, and any securities administrative rules shall be vested with the securities commissioner, and clarifying that securities-related activities conducted within the State shall be governed by and comply with chapter 485, HRS, and any securities administrative rules adopted thereunder;
 - (C) Upon receipt of the Commissioner's approval, a bank shall obtain any necessary approvals required under Chapter 485, HRS, and any securities administrative rules adopted thereunder, or under other applicable jurisdictions where the bank will be conducting securities activities;
- (6) Deleting from subsection (b) of section 412:5-C, HRS, language qualifying the extent that non-Hawaii law shall govern securities-related activities of Hawaii banks conducted outside of the State;
- (7) Deleting from subsection (c) of section 431:13-104, HRS, and adding to subsection (b)(1) of that same section, language providing that the requirement for a commitment for a loan or credit extension shall not apply if the required insurance premium is to be financed as part of the loan or extension involving personal property transactions;
- (8) Revising section 431:13-104(b)(4), HRS, to prohibit the use or disclosure of information relative to a contract of insurance required by or supplied in response to the loan or credit transaction for the purpose of replacing the insurance or soliciting insurance;
- (9) Adding a new subsection (h) to section 431:13-104, HRS, requiring the insurance commissioner to adopt certain insurance-related administrative rules;
- (10) Authorizing in the last section of the bill certain restricted branch sales of insurance after May 31, 2000, and providing for unrestricted branch sales of insurance after May 31, 2003; and
- (11) Making several technical, nonsubstantive changes for purposes of style and clarity.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 3159, 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. 3159, S.D. 1, H.D. 1, C.D. 1.

Senators Holt, Iwase, Anderson.
Managers on the part of the Senate.

Representatives Menor, Herkes, Swain, White, Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 70 on S.B. No. 1305

The purpose of this bill, as originally received by your Committee, is to promote recycling efforts in this State by allowing for flexibility in setting the specifications of crushed glass for use in public roadway projects.

Upon careful consideration, your Committee amended this bill in order to address the unlawful and indiscriminate dumping of used oil. Specifically, this bill amends chapter 342J, Hawaii Revised Statutes, governing hazardous wastes, by adding a new part which:

- (1) Consolidates the various statutes governing the regulation of used oil;
- (2) Authorizes the director of health to establish rules governing the recycling, transport, and disposal of used oil and used oil fuel; and
- (3) Requires a permit for the transportation and recycling of used oil.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1305, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1305, H.D. 1, C.D. 1.

Senators Grauly, Tam, Chumbley, Matsuura.
Managers on the part of the Senate.

Representatives Shon, M. Oshiro, Tarnas, Yamane, Meyer.
Managers on the part of the House.

Conf. Com. Rep. No. 71 on S.B. No. 2247

The purpose of the bill is to raise the crime of manslaughter from a class B felony to a class A felony, and to permit sentences of probation for manslaughter where appropriate. The bill also made technical, non-substantive revisions.

Your Committee finds that the state has had an increase in homicides, especially homicides involving domestic violence situations. Under current law, manslaughter is a class B felony so that a person convicted may be sentenced to imprisonment for up to ten years. Manslaughter is currently probationable.

Your Committee believes that a maximum sentence of ten years imprisonment is inadequate for the taking of a life. The bill makes manslaughter a class A felony so that a person convicted shall now be sentenced to a term of imprisonment of twenty years; however, your Committee further believes that courts should still be given the discretion to sentence a person to probation in those extremely rare circumstances where strong mitigating circumstances exist. The bill retains probation in those extremely rare circumstances.

The bill was amended by revising the technical, non-substantive amendments made for the purpose of style and clarity.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2247, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2247, H.D. 1, C.D. 1.

Senators Grauly, Matsunaga, Matsuura, McCartney, Anderson.
Managers on the part of the Senate.

Representatives Tom, Herkes, White, Yamane, Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 72 on S.B. No. 2249

The purpose of the bill is to provide for the extension of family court protective orders for a period not to exceed three years from the expiration of the preceding protective order.

Under current law, protective orders are valid for a period up to three years; however, protective orders granted for less than three years may not be extended. Your Committee finds that victims should be able to request an extension of a protective order for acts of abuse and treats of abuse that occurred prior to the initial restraining order.

The bill was amended by:

- (1) Enabling a protective order, granted for a period less than three years, to be extended for a period not to exceed three years from the date of the original protective order;

(2) Clarifying that a protective order may be extended upon the court's consideration of evidence of abuse and threats of abuse that occurred prior to the initial restraining order and whether good cause exists to extend the protective order; and

(3) Making technical, non-substantive revisions for the purpose of style and clarity.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2249, 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. 2249, S.D. 1, H.D. 1, C.D. 1.

Senators Gaulty, Matsunaga, Matsuura, McCartney, Anderson.
Managers on the part of the Senate.

Representatives Tom, Cachola, Herkes, White, Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 73 on S.B. No. 2326

The purpose of the bill is to add a new section to Chapter 134, hawaii revised statutes, which permits a police officer, with reasonable grounds to believe that a person has recently assaulted or threatened to assault a family or household member, to seize all firearms and ammunition in plain view or discovered pursuant to a consensual search from the person's household.

Additionally, the bill also cross-referenced this language to also include it in Section 709-906, hawaii revised statutes.

Your Committee amended the bill by:

(1) Clarifying the conditions and circumstances under which seized firearms and ammunition may be returned to the person;

(2) Deleting some of the unnecessary cross-referenced language proposed to be included in Section 709-906 which your Committee believes merely duplicated the language in the new section to Chapter 134;

(3) Revising Section 853-4, hawaii revised statutes, to clarify that convictions for the offense of abuse of family or household members are not subject to deferred acceptance of guilty or no contest pleas; and

(4) Making technical, non-substantive revisions for the purpose of style and clarity.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2326, 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. 2326, S.D. 1, H.D. 1, C.D. 1.

Senators Gaulty, Chumbley, Matsunaga, Matsuura.
Managers on the part of the Senate.

Representatives Tom, Herkes, White, Yoshinaga, Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 74 on S.B. No. 2381

The purpose of the bill is to broaden the offense of "custodial interference in the first degree" to include the abduction and removal of a minor from the custody of another, or in violation of a court order, by any person without "good cause". The bill defines "good cause".

Additionally, the bill created a new offense of "failure to report concealment of a child" to be included in Chapter 707, hawaii revised statutes.

Your Committee amended the bill by specifying that "good cause" is an affirmative defense to a prosecution for custodial interference in the first degree; provided that the person asserting the affirmative defense of "good cause" filed both a report with the family court and a request for a custody order as soon as was practicable.

The bill was also amended by deleting "failure to report concealment of a child" as a new offense to be included in Chapter 707, and by making technical, non-substantive revisions for the purpose of style and clarity.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2381, 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. 2381, S.D. 1, H.D. 1, C.D. 1.

Senators Gaulty, Matsunaga, McCartney, Tam, Anderson.
Managers on the part of the Senate.

Representatives Tom, Cachola, Chun Oakland, White, Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 75 on S.B. No. 2548

The purpose of this bill, as received by your Committee, is to amend section 520-4, Hawaii Revised Statutes, by expressly providing limited liability for landowners who are required by the State or county to provide public access (including parking) through or across their property for recreational purposes.

Current law limits the liability of landowners who provide public access to their property to engage in recreational activities at no charge. However, landowners who are required by the State or county to provide access through or across their property to reach other property used for recreational purposes are not expressly within the purview of section 520-4.

Upon careful consideration, your Committee amended the bill to clarify that landowners who are required by the State or county to provide public access or parking in order to reach other property used for recreational purposes have limited liability. In addition, technical, nonsubstantive changes were made for the purposes of clarity and style.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2548, 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. 2548, S.D. 1, H.D. 2, C.D. 1.

Senators Graulty, Iwase, Matsunaga, McCartney, Anderson.
Managers on the part of the Senate.

Representatives Takamine, Tom, Herkes, Nekoba, Meyer.
Managers on the part of the House.

Conf. Com. Rep. No. 76 on S.B. No. 2773

The purpose of this bill is to further clarify a number of aspects of the State's drug product selection (generic drug) law.

Specifically, this bill:

- (1) Makes it a misdemeanor to violate the drug product selection law (chapter 328, part VI, Hawaii Revised Statutes);
- (2) Imposes a maximum administrative penalty of \$10,000 for each separate violation of the drug product selection law;
- (3) Allows the Director of Health to seek injunctive relief to prevent any violation of the drug product selection law;
- (4) Replaces the term "dispenser" with the term "pharmacist", replaces the term "prescriber" with the term "practitioner", and defines the terms "pharmacist" and "practitioner", for the purposes of the drug product selection law;
- (5) Allows a practitioner to handwrite or verbally order the instructions "brand medically necessary", "dispense as written", "brand", or "brand only" (in addition to "do not substitute") to prevent the substitution of an equivalent (generic) drug product for a prescribed (brand name) drug product;
- (6) Requires a pharmacist to note the practitioner's instructions on the prescription record required to be maintained under the Hawaii Food, Drug, and Cosmetic Act (chapter 328, part I, Hawaii Revised Statutes), and gives the Department of Health all the powers conferred upon it under the Hawaii Food, Drug, and Cosmetic Act to enforce the drug product selection law;
- (7) Prohibits a pharmacist from substituting an equivalent (generic) drug product for any prescription for an anti-epileptic drug, except upon the consent of the practitioner and the patient or the patient's parent or guardian; and
- (8) Requires practitioners (in addition to pharmacists) to indicate on the immediate container in which a drug product is sold or dispensed the statement "Substituted for (Brand name of the drug product prescribed)", and to maintain a record of any substitution of a generically equivalent drug product for a prescribed brand name drug product.

At the request of the Director of Health, your Committee has amended this bill by deleting the provisions allowing a practitioner to handwrite or verbally order the instructions "brand medically necessary", "dispense as written", "brand", or "brand only" (in addition to "do not substitute") to prevent the substitution of an equivalent (generic) drug product for a prescribed (brand name) drug product. It is your Committee's understanding that the Medicaid Investigations Division of the Department of the Attorney General recently informed the Department of Health that the foregoing provisions might decrease the use of generic drug products in Hawaii and, consequently, increase health care costs.

Your Committee has also amended this bill by making technical, nonsubstantive changes for purposes of clarity and consistency.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2773, 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. 2773, S.D. 1, H.D. 1, C.D. 1.

Senators Graulty, Matsunaga, Matsuura, Anderson.
Managers on the part of the Senate.

Senator Holt did not sign the report.

Representatives Pepper, Menor, Tom, Chun Oakland, Anderson.
Managers on the part of the House.

Conf. Com. Rep. No. 77 on S.B. No. 2993

The purpose of this bill is to enact Articles I through IV of the Uniform Probate Code (1993 version) ("UPC"), with appropriate amendments.

The genesis of this bill was the Judicial Council's Committee on Uniform Probate Code and Probate Court Practices appointed by Chief Justice Ronald T. Y. Moon. That Committee undertook a review of Articles I through IV of the model Uniform Probate Code (1993 version) and determined that the model legislation, with amendments appropriate to Hawai'i traditions, would be a vast improvement over existing law.

Your Committee concurs that this bill would be a great step forward in the area of probate. It will significantly reduce the time, complexity, and expense of probate proceedings. It will free Judiciary personnel from routine paper work in the vast majority of probates in which there are no disputes. As the Chief Justice noted in his transmittal of the proposed legislation to the Legislature, probate will no longer be a time-consuming, cumbersome process that Hawai'i's citizens dread to the point that they spend hundreds and thousands of dollars creating trusts and rearranging title in order to avoid. At the same time, this bill provides ready access to a judge in the event either that a dispute arises during the course of a probate or that the interested parties desire judicial supervision. Thus, the probate courts will become like the rest of our courts: places to which to turn to resolve disputes.

This bill also favorably impacts areas other than probate procedure. It creates a meaningful system for protection of the interests of surviving spouses, giving them the same sorts of rights to marital assets when the marriage ends by death as they are entitled to when the marriage ends by divorce. It preserves intact Hawai'i's enlightened and well-thought-out "ohana adoption" statute adopted by the Legislature in 1992. It establishes comprehensive rules for the interpretation and construction of wills and trusts which are not precisely written.

In sum, it is a bill which enhances judicial efficiency while preserving consumer choice and providing significant time and cost savings for consumers faced with probate.

Your Committee has amended this bill by:

- (1) Clarifying in section 560:1-401 that, if a person's address is unknown, then a notice of hearing on a petition shall be published in a newspaper of general circulation;
- (2) Adding in section 560:3-603(1) the phrase "if bond has been requested by an interested party and the court is satisfied that it is desirable" to make clear that a bond is not automatically required for a special administrator appointed in informal proceedings;
- (3) Deleting in section 531-28.5 the phrase "and an interested person as defined in section 560:1-201 requests that real property be sold," because if a decedent's will does not specifically authorize the personal representative to sell real property, the existing statute requires court approval before the property may be sold; and
- (4) Adding in section 560:8-103(b)(2) language to make the provisions of parts 1 and 2 of article II relating to intestate succession and elective share apply only to the estates of decedents dying after the effective date of the Act.

In addition, your Committee has made technical nonsubstantive changes such as making gender neutral corrections.

As amended, S.B. No. 2993, S.D. 1, H.D. 1, C.D. 1, tracks closely with articles I through IV of the model Uniform Probate Code (1993 version). One significant benefit of our enactment of uniform legislation is that courts and attorneys here can look to judicial interpretation of identically worded statutes in other states for guidance in interpreting the local statute. As indicated above, S.B. 2993, S.D. 1, H.D. 1, C.D. 1, changes some of the language in a few model UPC sections to reflect and address Hawai'i traditions and concerns. So that the local courts and attorneys can know why your Committee is recommending those changes to the model Uniform Probate Code, your Committee has set out below a description of each non-self-evident substantive change to the model Uniform Probate Code and the reasoning behind such changes.

1. Section 560:1-201(28): Letters testamentary and letters of administration will only be effective for three years unless renewed for good cause, and such limitation will be stated on the face of the letters.

Reason for change: UPC §§3-1001 et. seq. do not require an informally appointed personal representative to close an estate; a personal representative or an interested person may formally close an estate with a court approved accounting, however. This would be done to secure protection for the personal representative or if a beneficiary was dissatisfied over the administration. In order for the Court to be able to consider a file "pau" in the absence of a court approved closing, simply limiting the efficacy of the letters to three years seems to be sufficient. In addition, it is anticipated that the time constraint will inspire the personal representative to complete the administration of the estate.

2. Section 560:1-302(a) is amended to add the words "and except as otherwise provided by section 560:5-102" after the word "constitution".

Reason for change: This is necessary in order to preserve the Family Court's exclusive jurisdiction of guardianships of the person.

3. Section 560:1-307 permits a Judiciary staff person designated by a judge to grant applications for informal probate and appointment. Although it is doubtful that such persons would be personally liable for any good faith mistakes in this quasi-judicial function and it is likely that judicial immunity attaches to such official acts without having the statute specifically so state, the Legislature wishes to make clear that its failure to amend the statute to specifically grant judicial immunity is motivated simply by the desire to preserve uniformity since it believes that such immunity exists without being explicitly stated, and such failure should not be considered as evidence of any intent not to have judicial immunity attach to the registrar in his or her performance of official duties.

4. Section 560:2-114 is amended from model UPC language to read exactly like existing Hawai'i law now found in section 560:2-109, Hawaii Revised Statutes.

Reason for change: Section 560:2-114 is Hawaii's pacesetter "ohana adoption" statute, enacted in 1992, which reflects the Hawaiian tradition of extended in-family adoptions with no intention that such adoptions legally sever the inheritance relationship from and through the natural parent, either in cases of intestacy or in testamentary documents. There is no legislative intent to have any part of this legislation in any manner affect the results which would presently obtain under existing 560:2-109 now renumbered 560:2-114.

5. Section 560:2-202 is amended to clarify that a surviving spouse may elect an elective share smaller than the amount to which he or she is entitled.

Reason for change: For purposes of post-mortem estate and family planning, the surviving spouse may desire to elect against the decedent's will, but not to the maximum extent provided. The suggested language makes clear that the surviving spouse has the right to make a "partial" election.

6. Section 560:2-208 is amended to exclude from the augmented estate calculations both trust assets funded by someone other than the married couple and property inherited during marriage and kept segregated.

Reason for change: The elective share concept reflects a tension between (i) society's respect for a testator's right to dispose of his or her property as he or she desires and (ii) society's insistence that such right not be utilized in a manner which would leave a surviving spouse with insufficient assets on which to live, plus the fact that the decedent probably was aided by the surviving spouse, at least indirectly, in the acquisition of his or her property (i.e., that they were "partners" of sorts). If a surviving spouse elects to take an elective share rather than that which passes to him or her under the decedent's estate plan, the spouse has, in effect, rejected the decedent's estate plan and sought benefits presumably greater than those intended by the decedent.

The current Hawai'i statute which permits a surviving spouse an elective share only against the decedent's net probate estate weighs heavily in favor of freedom of testation; the decedent can "disinherit" the surviving spouse by the simple medium of a revocable living trust.

Experience in other jurisdictions has shown the model UPC's augmented estate concept to be workable. Your Committee feels that, if the State is to have a statutory scheme providing protection for surviving spouses, it should be a better one than now exists and the UPC augmented estate concept is basically quite good.

S.B. No. 2993, S.D. 1, H. D. 1, C.D. 1, has a new subsection (a)(2) which is not found in the model UPC. This language is intended to exclude from consideration in calculating the augmented estate against which the elective share may be asserted (i) property which is held in a trust created by a third person, and (ii) property which is both acquired by gift, devise, inheritance, or trust distribution and kept segregated. The exclusion of the former property furthers the partnership view of marriage in that neither partner was responsible for the creation of the wealth in such a trust. In addition, the exclusion of such property will make easier the computation of the value of the augmented estate since, for example, it will not be necessary to determine the value of a third party trust providing a life interest for a surviving spouse.

The exclusion of property received by gift, inheritance, etc. after marriage, to the extent that it has been kept segregated, reflects your Committee's judgment and view that such property has long had special status in Hawaii. The Hawai'i appellate courts recognize that special status in their consideration of the division of property in the case of divorce. See *Tougas v. Tougas*, 76 Haw. 19, 27 (Sup. 1994); *Hussey v. Hussey*, 77 Haw. 202 (App. 1994). If the deceased spouse receiving such property has gone to the trouble of segregating it during marriage, it is your Committee's opinion that the surviving spouse should not be able to elect against it.

Parties can, of course, contract so as to exclude or limit elective share rights in the event that the marriage terminates on account of divorce or death. See Haw. Rev. Stat. Chpt. 572D and §560:2-213.

7. Section 560:2-212 is amended to better protect the descendants of the first spouse to die against an election by a guardian of an incapacitated surviving spouse.

Reason for change: The purpose of the elective share is to provide the surviving spouse adequate assets on which to live. In *re Estate of Merkel*, 618 P.2d 872 (Mont. 1980). The Legislature could require a court hearing to determine the "bona fides" of any surviving spouse's election against the deceased spouse's estate plan to insure that the surviving spouse has a need for the elected assets. That, however, would be expensive and judicially inefficient. Rather, the Legislature presumes that, in a marriage which has lasted until the death of one spouse, the surviving spouse will give due consideration to the deceased spouse's wishes as represented by his or her estate plan. The problem arises, however, when the surviving spouse is incompetent to make such an election; any person making the election for his or her benefit cannot fully know and appreciate the extent of the understandings between spouses arising during the course of the marriage.

There are an increasing number of second marriages, often with both spouses having children from prior marriages and with each spouse having the desire to ultimately pass his or her assets to his or her children after the death of the surviving spouse. The current HRS (and 1969 UPC) provision require that a court first determine "need" before an incapacitated surviving spouse could elect (through his or her guardian) against the pre-deceased's spouse's estate plan. The model UPC (1993 version) seeks to safeguard the interest of the predeceased spouse's prior family by requiring that any assets taken by an election go into a trust in which the surviving spouse has only a life interest for his or her "use and benefit", at the termination of which the assets would pass under the pre-deceased spouse's estate plan. Your Committee recommends expanding the model UPC protections for the predeceased spouse's family by more restrictions on when and for what purposes the custodial trust may be invaded. Thus, your Committee restricts the assets expended from the custodial trust for the benefit of the surviving spouse by (i) requiring that consumption of the surviving spouse's own assets be first required unless the trustee determines that it would be inappropriate, (ii) permitting invasion of principal only for the benefit of the surviving spouse and those whom the surviving spouse is required to support, and (iii) restricting the uses to which the assets can be put to "health, education, maintenance and support", words which have acquired meaning in the Internal Revenue Code sections on estate taxation and which are more restrictive than the model UPC's "use and benefit".

8. Section 560:2-205(3)(iii) is amended by substituting the figure "\$20,000" for the figure "\$10,000".

Reason for change: The change is in order to permit the amount to be given as a gift (without fear of implicating the elective share statute) to equal the maximum amount a husband and wife can collectively give to any one individual each year without filing a federal gift tax return.

9. Section 560:2-516 is amended to increase the sanctions on a person who knowingly and wilfully "hides" the will of a decedent.

Reason for change: Your Committee feels that there should be a strong disincentive to fail to produce the will of a decedent, hence the provision for treble damages for wilful non-production. For judicial efficiency, your Committee feels that any proceedings relating to damages arising from non-production of the will should be maintained in the probate proceeding relating to the will.

10. Section 560:2-606 is amended to restrict the instances where other property can be substituted for property specifically devised by a will.

Reason for change: The language deleted from the model UPC section would greatly expand property covered by a specific devise. Under current law, if the decedent wills his 1984 Ford to his son and later dies owning a 1993 Chrysler but not a 1984 Ford, the son does not inherit the Chrysler. Under the model UPC, the son would inherit the Chrysler if he can persuade a court that it was acquired "as a replacement" for the Ford. Your Committee feels uncomfortable with the change proposed by the model UPC. If the decedent's successors are in agreement that the son should inherit the Chrysler, they can always so direct under section 560:3-912. Or the testator could so provide by having a specific devise of "the car I own at the time of my death". In the absence of such an agreement or devise, however, your Committee felt that court time would not be well spent litigating questions of what the decedent intended when he disposed of specifically devised property without simultaneously amending the decedent's will.

11. Section 560:2-703 is amended to make clear that Hawai'i's rules of evidence will govern disputes in Hawai'i probates.

Reason for change: The change is intended to make clear that Hawai'i's law on evidence will govern the disposition of assets passing through Hawai'i probates. As the model UPC language indicates, there may be other public policy reasons for negating a testator's choice of law selection.

12. Section 560:2-709 is amended to make clear that the rules of construction relating to "per stirpes" and "right of representation" apply only to testamentary instruments executed after the effective date of the statute.

Reason for change: The terms "per stirpes" and "right of representation" are used interchangeably, and sometimes concurrently, in many existing wills and trusts in Hawaii. See *In re Estate of Allen*, 35 Haw. 501 (1940) (the will in question contained a devise which was to be divided amongst the takers "per stirpes by right of representation". 35 Haw. at 508). Some courts hold the terms to be synonymous. See *Johnson v. Huntley*, 39 Wash.2d 499, 236 P.2d 776 (1951). This section could cause different results depending upon which term was used. Your Committee feels that such results should apply prospectively for documents written after the effective date of the section lest there be unintended results in existing estate plans. Other rules of construction, however, would apply to previously drafted instruments. See section 560:8-101(b)(5).

13. Section 560:3-108 and section 560:3-301(a)(1)(vi) are amended to increase the time within which to submit a will for probate from three years to five years and to give the court discretion as to whether or not to later use a will not timely submitted as evidence of ownership of property.

Reason for change: Your Committee prefers existing Hawai'i law which permits probate of a will for up to five years following death. Giving the court discretion to permit a later use of the will to establish title to realty would address the issue implicit in *Martin v. Martin*, 77 Haw. 251 (App. 1994) wherein the court had no choice but to deny the efficacy of a late presented will. In *Martin* there is the suggestion that the will was not timely presented so that the possessor of the will could avoid payment of sums which the will required to be paid as a condition of him inheriting certain realty; under your Committee's language, if a court in a situation like *Martin* believed that to be the case, the court could refuse to permit the will to be used to establish title.

14. Sections 560:3-302 and 560:3-306 are amended (i) to require prior notice of an application for informal probate of a will to heirs and devisees if the person making the application is not a professional fiduciary or a close family

member, and (ii) to require that beneficiaries and heirs be specifically notified that the court is available to resolve any disputes about attorneys' fees since they will no longer be set by a statutory schedule.

Reason for change: The Judicial Council Committee had recommended, and S.B. No. 2993 had provided, that advance notice of either informal probate of a will or informal appointment of a personal representative be required. The model UPC only required that notice be given after appointment. The Judicial Council Committee's concern was that a person may have induced an invalid will from the decedent and that person would be given authority to gather all assets before the decedent's family knew what had happened. Your Committee feels that its language addresses this concern while not requiring advance notice in those instances where the person requesting informal probate is unlikely to be acting in bad faith (e.g. a close family member or a professional fiduciary).

Thus, paragraph (a) of section 560:3-302 is new language. Paragraph (a) of section 560:3-306 tracks model UPC language but adds the reference to a corporate fiduciary and family members. Paragraph (b) of section 560:3-306 is your Committee's language which addresses the "stranger" presenting a will for informal probate. Paragraph (c) of section 560:3-306 is model UPC language.

The requirement that specific reference be made to the availability of the court to address fee disputes was deemed necessary given the long tradition of statutory fees. Consumers may assume that the statutory fee schedule still prevails, this is designed to inform them that fees in probate, as elsewhere, are subject to discussion and negotiation.

15. Section 560:3-407 is amended to make clear that the burden of proof in contested probate cases may shift in the manner prescribed by the rules of evidence.

Reason for change: The Commentary to the model UPC notes that the UPC language sets forth "what is believed to be a fairly standard approach to questions concerning burdens of going forward with evidence in will contest cases." However, the model UPC language does not on its face allow for the shifting of the burden of proof upon proof of certain facts. For example, once a contestant establishes that a testator lacked capacity, the proponent of a will which was thereafter executed has the burden of proving that the will was written during a lucid interval. See *In re Coleman*, 1 Haw.App. 136, 615 P.2d 760 (1980); *Estate of Lopez*, 25 Haw. 197 (1919). In addition, once it is established that the proponent of a will in a confidential relationship with the testator actively procured the execution of the will and unnaturally benefitted thereunder, the burden shifts to the proponent to prove a lack of undue influence. See *Estate of Gelonese*, 36 Cal.App.3d 854, 111 Cal.Rptr. 833, 838 (1974); cf. *Teixeira v. Teixeira*, 40 Haw. 631 (1955) ("The burden of proof where there is a transaction between those standing in a fiduciary relationship is upon the person who held the position of superiority and influence by virtue of the relationship." at 637.) Under the rules of evidence, the presumption of undue influence is one which changes the burden of proof since it is a presumption adopted to implement a public policy. See Hawai'i Rules of Evidence, Rule 304(a); *Estate of Gelonese*, *supra*.

Your Committee's additional language is intended to make clear that the burden of proof in will contest cases is subject to change upon proof of requisite facts in the same manner as it is subject to change in other areas of law under the rules of evidence.

16. Section 560:3-606 is amended by adding a new paragraph (6) to insure that bonds in probate do not lapse because of the personal representative's errors.

Reason for change: Paragraph (6) continues existing Hawai'i law and is desirable to insure that the surety's liability will not be extinguished on account of any malfeasance of the personal representative.

17. Section 560:3-715 is amended to make clear that the sale of realty provisions found in sections 531-28.5 and 531-29 are still available should an interested party request judicial intervention.

Reason for change: Existing Hawai'i law requires court confirmation for the sale of realty from probate even if all interested parties agree to the sale terms. The language added to section 560:3-715 reflects your Committee's attempt to balance the desire to treat land sales carefully with the desire to minimize court involvement where the interested parties are in agreement. There is some strong sentiment that the requirement of court confirmation of realty sales should be abandoned completely as in the UPC. That sentiment is fueled by a judgment that the requirement of a court confirmation tends to lead to lower initial offers on probate property since the initial offeror knows that there will be the inherent delay occasioned by court proceedings and, in addition, knows that he or she may be outbid at the court hearing. The contrary view is that the court confirmation leads in some cases to a bidding war which benefits the estate by escalating the sale price. Your Committee's language bows to the wishes of the interested parties: if either the decedent requires, or one of the successors of the decedent's estate demands, the sale must be confirmed by the court.

18. Sections 560:3-801 and 560:3-803 are amended to give the personal representative the option whether or not to publish notice to creditors and to provide a vehicle for trustees of the decedent's trusts to publish notice and thereby compel creditors to timely present their claims or have them barred. If there is no publication, creditors' claims would be barred if not presented within eighteen months after death.

Reason for change: The model UPC gives a choice to enacting legislatures as to whether or not to require published notice. Strong opposition was expressed in hearings to the requirement of published notice, especially given the expense (around \$300) which was considered unnecessary in a simple probate. By giving published notice, a personal representative can shorten the time within which creditors must present their claims to four months following publication; by changing "shall publish" to "may publish", this language gives the personal representative the choice to save money or to shorten the creditor claim period.

Sections 560:3-801(f) and 560:3-803 are intended to address a nettlesome area of law. The use of revocable living trusts is widespread in Hawai'i. To the extent that the motivating force for such trusts has been probate avoidance, your Committee expects that they will be far less common in the future than they have been in the past. Such trusts are

intended as a will substitute. However, there is now no law which specifically addresses the creditor's rights as against assets held in trust and the time limits within which a creditor may seek to exercise whatever rights may exist. Section 560:3-801(f) does not address the substantive issue of the right of a creditor to proceed against the assets in trust, but it does give the representatives of the decedent the right to set up the same time bars as are available in probate if such representatives accord the creditors the same notice to which they are entitled for probate assets.

Finally, section 560:3-803(a)(2) accords creditors eighteen months following death within which to present claims where no notice to creditors is published. The model UPC would give creditors one year while existing Hawai'i law gives them three years. Your Committee feels that eighteen months is a fair balance between the competing desires to wrap up probates quickly and to give creditors adequate time to learn of the death and act thereon.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2993, 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. 2993, S.D. 1, H.D. 1, C.D. 1.

Senators Gaulty, Matsunaga, Matsuura, McCartney, Anderson.
Managers on the part of the Senate.

Representatives Tom, Swain, White, Yamane, Kawanakoa.
Managers on the part of the House.

Conf. Com. Rep. No. 78 on S.B. No. 2152

The purpose of this bill, as received by your Committee on Conference, is to allow the Department of Education or the University of Hawaii to pay amounts to a qualified custodial account established on behalf of an employee.

This bill also limits the liability of the State, the Department of Education, and the University of Hawaii for sums deferred or the performance of any investment product purchased as part of any 401(k), 403(b) insurance annuity, or 403(b)(7) mutual fund custodial account under Chapter 303, Hawaii Revised Statutes.

Your Committee on Conference has amended this bill by:

- (1) Changing the title of Section 303-3, Hawaii Revised Statutes, from "Premium withholding" to "Agreement to pay amounts", and clarifying in that section that an agreement can be entered into under which the employer shall withhold from the salary of the employee the "amounts paid to", rather than "amount of the premiums payable on account of", the annuity contract or custodial account; and
- (2) Changing the effective date to January 1, 1997.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2152, 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. 2152, S.D. 1, H.D. 2, C.D. 1.

Senators Ikeda, Kanno, Baker, Solomon, Liu.
Managers on the part of the Senate.

Representatives Lee, Stegmaier, Say, Abinsay, Yonamine, Marumoto.
Managers on the part of the House.

Conf. Com. Rep. No. 79 on S.B. No. 2836

The purpose of this bill, as received by your Committee on Conference, is to reduce employer contributions to the Employees' Retirement System (ERS) by decreasing the salary increase assumption from six and one-half to four percent which is to be used for actuarial valuations of the ERS for the years ending June 30, 1994, to June 30, 2000.

This bill as received also amends the provisions regarding the employers' contributions to the pension accumulation fund by:

- (1) Conditioning any excess earnings credit to the employers upon a five-year average of total earnings that equal or exceed the investment yield rate applied in actuarial valuations; and
- (2) Conditioning the requirement that the employers contribute additional funds in the event of a shortfall upon a five-year average total of earnings less than the investment yield rate.

Upon further consideration and discussion, your Committee on Conference has amended this measure by deleting the provisions dealing with the employers' contributions to the pension accumulation fund in relation to the investment earnings.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2836, 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. 2836, S.D. 2, H.D. 2, C.D. 1.

Senators Ikeda, Kanno, Baker, Solomon, Anderson.
Managers on the part of the Senate.

Representatives Yonamine, Say, Nakasone, Suzuki, Marumoto.

Managers on the part of the House.

Conf. Com. Rep. No. 80 on S.B. No. 2458

The purpose of this bill is to transfer marine patrol functions from the Department of Public Safety (PSD) to the Department of Land and Natural Resources (DLNR), Division of Conservation and Resources Enforcement.

Your Committee finds that to improve and coordinate boating, ocean recreation, and coastal area enforcement programs under Chapter 200, Hawaii Revised Statutes, the marine patrol program should be transferred from the PSD to the DLNR.

Your Committee agrees that the marine patrol functions currently being performed by the PSD belong more appropriately within the DLNR, as recommended by the Auditor in 1992. Your Committee finds that inadequacies continue to exist as the responsibility for enforcement of the shorelines and ocean waters is divided between the two departments, and that increased use of these waters has magnified the need for an expanded and more effective enforcement program.

Upon further consideration, your Committee has amended the bill by adding a section to the bill that amends section 266-24, Hawaii Revised Statutes, to clarify that the Department of Transportation shall enforce Chapter 266, Hawaii Revised Statutes, and any rules adopted thereunder, except for rules relating to the control and management of the beaches encumbered with easements in favor of the public and ocean waters, which shall be enforced by the DLNR.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2458, 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. 2458, S.D. 2, H.D. 2, C.D. 1.

Senators Ikeda, Grauly, Iwase, Holt, Liu.
Managers on the part of the Senate.

Representatives Santiago, Tom, Say, Tarnas, Anderson.
Managers on the part of the House.

Conf. Com. Rep. No. 81 on S.B. No. 1720

The purpose of this bill is to provide for the creation and registration of limited liability partnerships (LLP), and to establish the requirements which must be met in order for them to do business in the State. The primary purpose of a LLP is to limit the liability of an innocent partner to that person's investment in the LLP. An innocent partner is not individually and personally liable for debts, obligations, and liabilities chargeable to the LLP.

Your Committee has amended the bill as follows:

- (1) By amending Section 1 of the bill which sets forth the new chapter of the Hawaii Revised Statutes (HRS) creating LLPs to:
 - (A) Provide that all LLPs, professional or nonprofessional, shall meet the same financial responsibility requirements, and to provide different ways in which such requirements may be met;
 - (B) Define "professional" LLPs;
 - (C) Prohibit the formation of LLPs for the practice of law;
 - (D) Provide that registration of a foreign LLP is effective at the time of filing the application for registration; and
 - (E) Impose a fee of \$100 for each certification of a domestic or foreign LLP;
- (2) By deleting Sections 2, 4 through 9, and 11 through 13 which were housekeeping amendments to the HRS rendered unnecessary by Act 198, Session Laws of Hawaii 1995;
- (3) By renumbering the remaining sections of the bill;
- (4) By amending section 16, now renumbered as section 6 in the bill as amended by your Committee, to provide that this Act shall take effect on April 1, 1997;
- (5) By making other technical and nonsubstantive changes for purposes of style and clarity.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1720, 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. 1720, S.D. 1, H.D. 1, C.D. 1.

Senators Holt, Iwase, Anderson.
Managers on the part of the Senate.

Representatives Menor, Say, Jones, Swain, Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 82 on S.B. No. 2723

The purpose of this bill is to allow the formation of limited liability companies in Hawaii.

This bill is a product of the collaborative effort of the Business Registration Division of the Department of Commerce and Consumer Affairs and the Hawaii State Bar Association Sections on Corporations and Securities and Real Estate and Finance. The bill is based in significant part on the Uniform Limited Liability Company Act adopted in 1994 by the National Conference of Commissioners on Uniform State Laws, and Hawaii will be the first to adopt this form of the model legislation.

A limited liability company is a hybrid business entity that offers, when properly structured, the limited liability protection of a corporation together with the "pass-through" tax benefits of a partnership. Although there are other business formations, such as S corporations, which offer some of the advantages of a limited liability corporation, this form of business entity offers more flexibility. During the last ten years, limited liability companies have become a popular method of operating many types of businesses.

Your Committee believes that allowing the formation of limited liability companies in Hawaii will provide an attractive incentive for new businesses to be established in the State, and will promote economic development in the State. As Hawaii is one of the few states that does not currently permit the formation of limited liability companies, failure to enact this measure would only encourage businesses to go elsewhere.

Your Committee has amended the bill by correcting internal section references, and making technical, nonsubstantive changes.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2723, 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. 2723, S.D. 2, H.D. 1, C.D. 1.

Senators Ikeda, Holt, Iwase, Liu.
Managers on the part of the Senate.

Representatives Menor, Tom, Say, Suzuki, Yoshinaga, Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 83 on S.B. No. 641

The purpose of this bill, as received by your Committee on Conference, is to provide a grant-in-aid of \$3 to allow community cable television stations to videotape legislative proceedings for recablecast at convenient viewing times for residents of Maui, Kauai, and Hawaii counties.

Your Committee on Conference notes that an appropriation of \$62,000 for the same purpose was passed by the Legislature during the First Special Session of 1995 (Act 5, Section 9), but funds have not yet been released.

Your Committee on Conference has amended this measure by:

- (1) Deleting Section 2 and substituting instead an amendment to Section 9 of Act 5, First Special Session of 1995, extending the appropriation of \$62,000 to fiscal year 1996-1997, and changing the expending agency from the Department of Commerce and Consumer Affairs to the Legislative Reference Bureau; and
- (2) Changing the effective date to June 28, 1996.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 641, 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. 641, S.D. 2, H.D. 1, C.D. 1.

Senators Ikeda, Fukunaga, Ihara, Tanaka, Taniguchi, Liu.
Managers on the part of the Senate.

Representatives Kanoho, Say, P. Oshiro, Marumoto.
Managers on the part of the House.

Conf. Com. Rep. No. 84 on S.B. No. 1735

The purpose of this bill is to consolidate the revolving funds for the small fishing vessel and large fishing vessel purchase, construction, renovation, maintenance, and repair loan programs as part of the Hawaii capital loan revolving fund. The bill also authorizes the Department of Business, Economic Development, and Tourism to transfer funds between the Hawaii capital loan revolving fund and the State disaster revolving loan fund in addition to the Hawaii innovation development fund.

Your Committee finds that fiscal efficiency can be achieved by consolidating the specific fishing vessel revolving funds into the much more broadly based capital loan fund. Your Committee also finds that the statutory provisions of chapter 210, and parts II and IV of chapter 189, Hawaii Revised Statutes, are broad enough to allow loans for the large and small fishing vessel loan programs to be made from the capital loan fund.

Your Committee on Conference has amended this bill by limiting the amount of funds that can be transferred annually by the Department to an aggregate of \$1,000,000 in addition to technical, nonsubstantive amendments.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1735, 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. 1735, S.D. 1, H.D. 2, C.D. 1.

Senators Ikeda, Matsunaga, Baker, Kawamoto, Liu.
Managers on the part of the Senate.

Representatives Herkes, Say, Abinsay, Jones, Marumoto.
Managers on the part of the House.

Conf. Com. Rep. No. 85 on S.B. No. 2552

The purpose of this bill is to effectuate the reorganization of state government by:

- (1) Establishing legislative policies for reorganization; and
- (2) Mandating the governor to develop implementation strategies that focus on the feasibility of:
 - (a) Consolidating specified administrative and business departments; and
 - (b) Reorganizing the remaining departments and offices of state government listed under section 26-4, Hawaii Revised Statutes, for future implementation.

Your Committee has amended this bill by deleting the Department of Budget and Finance from the list of administrative departments in Section 3 which the Governor is required to consolidate, and adding that Department to the list of departments in Section 5 which are to be examined by the Governor for possible reorganization for future implementation.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2552, 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. 2552, S.D. 1, H.D. 2, C.D. 1.

Senators Ikeda, Baker, Iwase, Kawamoto, Solomon, Tanaka, Taniguchi, Liu.
Managers on the part of the Senate.

Representatives Herkes, Cachola, Yonamine, Say, Marumoto.
Managers on the part of the House.

Conf. Com. Rep. No. 86 on S.B. No. 3232

The purpose of this bill is to provide government services more efficiently and to enable the Office of the Governor to better focus on important policies by:

- (1) Abolishing the Office of State Planning (OSP);
- (2) Transferring the OSP's planning and related responsibilities to the Department of Business, Economic Development, and Tourism (DBEDT);
- (3) Transferring the responsibility for the Coastal Zone Management Program from OSP to the Department of Land and Natural Resources; and
- (4) Transferring personnel, records, equipment, authorization, and funds of OSP to the appropriate agency or department.

Your Committee has amended this bill by substituting its provisions with provisions to:

- (1) Rename the OSP to Office of Planning (OP), and renaming the Director of OSP to Director of OP;
- (2) Transfer the OP to the Department of Business, Economic Development, and Tourism;
- (3) Amending specific functions of OP to:
 - (A) Add planning and coordination for a statewide planning and geographic information system;
 - (B) Delete population planning and capital investment planning;
 - (C) Add development and coordination of the implementation of the ocean resources management plan, and formulation of ocean policies regarding economic zone, coral reefs, and natural marine sanctuaries; and
 - (D) Add regional, national, and international planning; and
- (4) Providing for the transfer of rights, powers, functions, duties, and employees.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 3232, 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. 3232, S.D. 2, H.D. 2, C.D. 1.

Senators Ikeda, Baker, Fernandes Salling, Tanaka, Taniguchi.
Managers on the part of the Senate.

Representatives Say, Yonamine, Jones, Nakasone, Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 87 on S.B. No. 2087

The purpose of this bill, as received by your Committee on Conference, is to establish the school entrepreneurship special fund, establish a school-run business venture in a public school, and require the State to pay workers' compensation premiums for students paid wages by an employer when the student is enrolled in a department of education or University of Hawaii student internship program.

Upon further consideration, your Committee on Conference has amended this measure by:

- (1) Deleting the provisions establishing the school entrepreneurship special fund and the school-run business venture;
- (2) Inserting a provision exempting public schools from the state procurement code for procurements of less than \$5,000 for goods, services, or construction, and including prohibitions against multiple purchases and parcelling to avoid the procurement code;
- (3) Directing the revisor of statutes to conform the amendments to section 300-52, Hawaii Revised Statutes, with any recodification of the education statutes;
- (4) Changing the effective date to upon approval; and
- (5) Making nonsubstantive, technical changes for the purposes of clarity and style.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2087, 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. 2087, S.D. 1, H.D. 2, C.D. 1.

Senators Ikeda, Chumbley, Bunda, Taniguchi, Liu.
Managers on the part of the Senate.

Representatives Stegmaier, Tom, Say, Santiago, Halford.
Managers on the part of the House.

Conf. Com. Rep. No. 88 on S.B. No. 2090

The purpose of this bill is to improve the safety of pesticide use by:

- (1) Establishing the Pesticide Use Revolving Fund (Revolving Fund) to provide funding for certain Department of Agriculture (DOA) programs relating to pesticides;
- (2) Establishing an annual licensing fee of \$75 for all pesticides regardless of use classification;
- (3) Increasing the penalty for certain pesticide violations; and
- (4) Imposing a twenty-day time limit in which to request an administrative hearing for a pesticide violation.

Also included in the bill are changes to the penalty provisions of section 149A-41(b), Hawaii Revised Statutes, that would enable the Department of Agriculture to take meaningful enforcement actions. Your Committee finds that when private applicators and other individuals distribute pesticides, or apply pesticides for a fee, they are subject to lower penalties than individuals who are licensed as dealers or commercial applicators. The bill would establish equity in enforcement responses when private applicators and other individuals act in the capacity of a dealer or commercial applicator.

Your Committee finds the measure provides the DOA with the means to support the Department's pesticide program's registration and licensing, certification and education, and compliance monitoring activities. The DOA is also mandated to expend revolving fund moneys on the establishment of pesticide training workshops, educational programs, and other services for pesticide users such as the agricultural pest control industry, the structural pest control industry, and consumer users of pesticides. Moneys from the revolving fund may also be used for the purchase of services, materials, and equipment.

Throughout its deliberations on this measure this session, your Committee finds that the Department of Agriculture has issued licenses to sell approximately 7,268 pesticides in the State. Of these licenses, approximately 370 are for restricted-use pesticides. The current fee is \$15 for general-use pesticides and \$30 for restricted-use pesticides and the licenses are valid for three years.

Your Committee also finds that it has been fifteen years since the last pesticide licensing fee increase and that the establishment of a \$75 fee was a compromise proposed during the 1994 legislative session when the Department of Agriculture sought to increase the pesticide licensing fees to \$200 per product per year. However, your Committee understands that Hawaii represents a relatively small market, especially for agricultural chemicals. All the crops grown

here are considered minor crops and too large a fee increase may result in registrants pulling out of the Hawaiian market to the detriment of Hawaiian agriculture.

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

- (1) Placing all revenues derived from the licensing and registration fees and charges collected by the DOA under section 149A-13(b), Hawaii Revised Statutes, to be deposited into the Pesticide Use Revolving Fund, rather than just one-third of the revenues;
- (2) Establishing a \$250,000 ceiling on the amount that the Pesticide Use Revolving Fund may retain as an annual balance and providing that any revenues collected in excess of the \$250,000 pursuant to this measure be deposited in the State General Fund;
- (3) Providing the DOA with the flexibility to increase or decrease pesticide licensing fees;
- (4) Clarifying that the moneys expended from the Pesticide Use Revolving Fund for training, education, and other services for industry and consumer groups shall be done so in a manner that appropriately addresses the needs of each category of pesticide user;
- (5) Specifying that the annual reports required to be submitted to the Legislature also include the amounts spent for training, education, and other services for industry and consumer groups; and
- (6) Modifying the appropriation section of the bill to authorize expenditures by the DOA of up to \$250,000 for fiscal year 1996-1997 from the Pesticide Use Revolving Fund, rather than appropriating funds from the State General Fund for deposit into the Pesticide Use Revolving Fund for such use.

Your Committee believes that the amendments contained in the bill will enable the Department of Agriculture to better regulate pesticide use in the State.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2090, 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. 2090, S.D. 2, H.D. 2, C.D. 1.

Senators Ikeda, Kanno, Baker, Solomon, Anderson.
Managers on the part of the Senate.

Senator Anderson did not concur.

Representatives Swain, Say, Herkes, Jones, Kahikina, Halford.
Managers on the part of the House.

Conf. Com. Rep. No. 89 on S.B. No. 2278

The purpose of this bill is to:

- (1) Require the Director of Finance to transfer funds from the Agriculture Loan Revolving Fund under section 155-14, Hawaii Revised Statutes, to the general fund for fiscal year 1996-1997 for agricultural research and development;
- (2) Appropriate funds for agricultural research and development, which is to be performed by the Hawaii Agriculture Research Center (HARC); and
- (3) Provide two matching fund provisions with regard to the appropriation.

Your Committee recognizes that to ensure the viability of agriculture in the State, it is important to continue agricultural research and development efforts to maintain and improve current crops grown across the State and to develop new crops. As such, the Hawaii Agriculture Research Center plays an essential role in sustaining agriculture in the State.

The HARC provides not only necessary agricultural research for sugarcane, but many other agricultural products as well. Funding the HARC will provide the various components of the State's agricultural industry with the opportunity to be more productive and, therefore, more successful.

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

- (1) Deleting the provisions that require the Director of Finance to transfer funds from the Agriculture Loan Revolving Fund under section 155-14, Hawaii Revised Statutes, to the general fund for fiscal year 1996-1997 for agricultural research and development;
- (2) Inserting the amount of \$1,000,000 as the appropriated amount for the HARC;
- (3) Inserting the amount of \$10,000,000 in annual statewide crop sales as the threshold that triggers the dollar-for-dollar matching fund requirement for agriculture research by the HARC; and
- (4) Placing a ceiling of \$250,000 that may be released unmatched for exploratory agricultural research and development, and providing a 3:1 public dollar to private dollar ratio for matching funds for research for other agricultural commodities.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2278, 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. 2278, S.D. 2, H.D. 1, C.D. 1.

Senators Ikeda, Kanno, Baker, Kawamoto, Anderson.
Managers on the part of the Senate.

Representatives Morihara, Say, Jones, Swain, Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 90 on S.B. No. 2333

The purpose of this bill is to transfer the responsibility for purchase of service contracts under chapter 42D, Hawaii Revised Statutes (HRS), to the State Procurement Office (SPO) effective July 1, 1998. This bill:

- (1) Amends chapter 42D, HRS, to apply only to grants and subsidies, to remove references to purchases of service, and to eliminate the executive coordinating council and the advisory council; and
- (2) Amends chapter 103D, HRS, to apply to purchase of service contracts.

Your Committee has amended the bill to generally synthesize both the House and Senate positions, by deleting its provisions and replacing them with provisions that:

- (1) Provide that responsibility for all purchase of service contracts shall be transferred to the SPO effective July 1, 1998, and provide a two-year transition period;
- (2) Provide that the administrator will work with all interested purchase of service providers and affected departments to develop a purchase of service procedure;
- (3) Amend Act 194, Session Laws of Hawaii 1992, to extend the sunset provision of chapter 42D, HRS, from July 1, 1996, to July 1, 1998;
- (4) Increase the period for which purchase of service contracts may be authorized from two to four years;
- (5) Require the administrator of the SPO to develop a transition plan by December, 1996, to develop necessary and desirable planning and procurement procedures; and
- (6) Provide for staffing and support, and an appropriation of \$90,000.

It is the Committee's intent that all interested purchase of service providers have equal access and input into the development of a new purchase of service contract procedure. It is the Committee's further intent that all costs and expenses associated with the state employees loaned to the SPO shall not be charged to the SPO, but shall be borne by the lending departments to the same extent as if the employees were not on loan.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2333, 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. 2333, S.D. 1, H.D. 1, C.D. 1.

Senators Ikeda, Baker, Fernandes Salling, Kawamoto, Taniguchi, Anderson.
Managers on the part of the Senate.

Representatives Say, Kawakami, Nakasone, Marumoto.
Managers on the part of the House.

Conf. Com. Rep. No. 91 on S.B. No. 2522

The purpose of this bill is to establish the Hawaii health systems corporation, a public corporation and body-politic of the State, for the purpose of administering the State's community hospitals. The corporation consists of a chief executive officer, a thirteen-member corporate board, five regional boards of no fewer than seven-members, and thirteen health facilities. This bill grants powers, duties, and privileges to the corporation which facilitate the autonomous operation of the community hospitals by the regional boards, including among other things, an exemption from the State's procurement code. This bill also creates a separate civil service system for the employees of the corporation and provides for the orderly transfer of employees from the division of community hospitals to the corporation.

Your Committee on Conference amended this bill by:

- (1) Reforming the corporate board to an eleven-member board, consisting of one member from each of five regions, five at-large members, and the Director of Health, serving in an ex-officio, voting capacity;
- (2) Eliminating the regional boards and, commencing on the transfer date, replacing them with regional public health management advisory committees which would provide regional advisory input to the corporation and to the governor in the appointment process;
- (3) Substituting Senate confirmation of gubernatorial appointees for House of Representatives confirmation;

- (4) Restricting the number of exempt employees that can be appointed by the chief executive officer of the corporation to eighteen;
- (5) Adding a prohibition against the sale, transfer, or alienation of a substantial portion of the corporation's assets;
- (6) Adding the corporation's right to use the legal services of the attorney general;
- (7) Prohibiting the corporation's use of contractual or business relationships to undermine the collective bargaining representation within the corporation, except to the extent that such relationships have been allowed as of the 1995-1996 fiscal year;
- (8) Adding records from peer review proceedings and medical records to the list of documents exempt from the requirements of chapter 92F, Hawaii Revised Statutes;
- (9) Adding a budget oversight provision which maintains legislative oversight over the corporation's budgets and any substantial reduction or elimination of services;
- (10) Deleting the allowance for substantial reduction of services due to the failure of the legislature to act before the convening and closing of one legislative session after being notified of such proposed action;
- (11) Deleting the requirement that the legislature provide alternatives to substantial reduction or elimination of services if it chooses to intervene; and
- (12) Providing that the contributions for employee benefits of transferred employees shall be paid by the corporation.

Your Committee on Conference also made numerous technical, non-substantive changes for purposes of style and consistency.

It is your Committee on Conference's intention and understanding that all regional public health management advisory committee meetings shall be subject to chapter 92, Hawaii Revised Statutes. It is your Committee on Conference's further intention and understanding that surpluses generated by a public health facility will not be retained by that facility, and instead shall be transferred to the corporation for use and distribution according to its budgets.

Your Committee on Conference stresses that the purpose of establishing the corporation is not primarily to force the community hospitals system to be profitable or even to break even, although that is certainly a worthwhile objective, and it is expected that a benefit of the new corporate structure will be a more efficient, and therefore a more cost-effective, system. The purpose and overriding goal of this bill is to provide better health care for all of the people in the State of Hawaii, including those served by small rural facilities, by freeing the facilities from unwarranted bureaucratic oversight. If there is a conflict between appropriate health care and "bottomline" decisions, quality health care should be given precedence to the extent reasonably possible.

Your Committee on Conference believes the members of the corporation board and the management advisory committees should remain ever cognizant of the great fiduciary responsibility that they have to the public and the residents of their respective regions, and carefully weigh any decisions that they make while considering this important obligation. Due to the critical nature of their responsibilities, their decisions should be based upon a prudent business person standard.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2522, 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. 2522, S.D. 1, H.D. 2, C.D. 1.

Senators Ikeda, Levin, Fernandes Salling, Kawamoto, Solomon, Tanaka, Liu.
Managers on the part of the Senate.

Representatives Pepper, Kawakami, Hamakawa, Isbell, Anderson.
Managers on the part of the House.

Conf. Com. Rep. No. 92 on S.B. No. 2795

The purpose of this bill is to provide emergency funding for child and adolescent mental health programs.

Your Committee finds that this appropriation is necessary to prevent the reduction or discontinuance of payments for services to emotionally disturbed children and adolescents and to respond to the requirements of the Felix v. Waihee consent decree.

Your Committee on Conference has amended this bill by specifically stating that the total amount appropriated is \$5,902,756. Your Committee intends that this amount be allocated among the following entities and purposes:

1. University of Hawaii, School of Medicine;
2. Emergency Residential Placements;
3. Acute Psychiatric Services;
4. Wraparound Services;

5. School Based Services;
6. Hearing Impaired Contract Services;
7. Operational Costs for the State Implementation Team; and
8. Personal Services Funding.

Your Committee has also deleted section 2 of the bill which contained language relating to exceeding the general fund expenditure ceiling.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2795, 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. 2795, S.D. 2, H.D. 2, C.D. 1.

Senators Ikeda, Levin, Kawamoto, Taniguchi, Liu.
Managers on the part of the Senate.

Representatives Pepper, Say, Jones, Kawakami, Marumoto.
Managers on the part of the House.

Conf. Com. Rep. No. 93 on S.B. No. 2902

The purpose of this bill is to change from July 1, 1998 to July 1, 2002, the date after which the salary of the president of the University of Hawaii will be set by the legislature.

Your Committee on Conference has amended the bill by changing the proposed July 1, 2002 date to July 1, 2011.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2902, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2902, H.D. 1, C.D. 1.

Senators Ikeda, Ige, Iwase, Taniguchi, Liu.
Managers on the part of the Senate.

Representatives Lee, Say, Nekoba, Shon, Marumoto.
Managers on the part of the House.

Conf. Com. Rep. No. 94 on S.B. No. 2913

The purpose of this bill is to require that contractors obtain a tax clearance from the Director of Taxation and the Internal Revenue Service as a prerequisite to entering into a public contract of \$10,000 or more. The bill provides the following:

- (1) A contractor must provide a state and federal tax clearance as a prerequisite to entering into a public contract;
- (2) State or county contracting officers shall withhold payment in the final settlement of a contract until the receipt of tax clearances, and, if not received within six months, the final settlement payment shall be assigned to offset the tax liability; and
- (3) An assignee of a contract, as a condition precedent to the assignment, must first obtain a bulk sales certificate if required by law, and present the certificate, or a tax clearance if the certificate is not required by law, to the state or county contracting officer.

These requirements do not apply to emergency purchases under section 103D-307, Hawaii Revised Statutes; procurements of less than \$10,000 (although the contracting officers may apply the provisions); to contractors who are in good standing under a plan whereby the delinquent taxes are being paid; and to situations where a tax appeal has been filed. The bill further provides that a state or county contracting officer violating these provisions is subject to a \$1,000 fine and a one year prison term. Lastly the bill appropriates \$1 for the purposes of the Act.

Your Committee has amended the bill by adding a requirement that progress payments shall be assigned to the appropriate taxing authority if the contractor fails to timely file all tax returns, or pay all taxes during the contract. The bill has been further amended by deleting section 3 of the bill, the appropriation section. Your Committee finds that no additional funds are necessary as the Department of Taxation is able to implement this bill with existing resources.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2913, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2913, H.D. 1, C.D. 1.

Senators Ikeda, Baker, Fernandes Salling, Kawamoto, Solomon, Liu.
Managers on the part of the Senate.

Representatives Tom, Say, Herkes, Nakasone, Marumoto.
Managers on the part of the House.

Conf. Com. Rep. No. 95 on S.B. No. 3108

The purpose of this bill, as received by your Committee on Conference, is to dissolve the governing board of the Clean Hawaii Center (Center) and authorize the Department of Business, Economic Development, and Tourism (DBEDT) to assign committees to provide advice and direction for the operation of the Center until its closure in 1999.

Your Committee on Conference finds that while the ambitious waste reduction goals established by the Legislature in 1991, and reaffirmed in 1994 with the establishment of the Center, are still desirable, the lack of financial, political, and administrative support will not allow them to be reached at this time.

Your Committee on Conference believes that the dissolution of the governing board will provide the Center with a more cost-efficient and flexible framework to assist the emerging recycling industry in Hawaii.

Your Committee on Conference has amended this measure by:

- (1) Deleting a reference to "the board" in Section 3(h)(5) of Act 202, Session Laws of Hawaii 1994, as amended by Act 2, Special Session Laws of Hawaii 1995;
- (2) Providing that the governing board shall cease to exist on June 30, 1996, rather than "on approval of this Act", as provided in House Draft No. 1;
- (3) Requiring that committees appointed by DBEDT to provide advice and direction for the operation of the Center include representatives from the neighbor islands; and
- (4) Making a technical, nonsubstantive amendment to include all amendments to Act 202, Session Laws of Hawaii 1994, as amended by Act 2, Special Session Laws of Hawaii 1995, in one section of the bill.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 3108, 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. 3108, S.D. 2, H.D. 1, C.D. 1.

Senators Ikeda, Matsunaga, Tam, Fukunaga, Liu.
Managers on the part of the Senate.

Representatives Herkes, Kawakami, Jones, Morihara, Marumoto.
Managers on the part of the House.

Conf. Com. Rep. No. 96 on S.B. No. 3135

The purpose of this bill, as received by your Committee on Conference, is to require the director of finance to notify the legislature, prior to making modifications or reductions in allotments, in which the modifications or reductions exceed 2.5 percent of the total general fund appropriation.

Upon further consideration, your Committee on Conference has amended this bill by specifying that the director of finance shall notify the president of the Senate, the speaker of the House of Representatives, and the chairpersons of the Senate Committee on Ways and Means and the House of Representatives Committee on Finance, regarding any such modifications or reductions.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 3135, 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. 3135, S.D. 1, H.D. 1, C.D. 1.

Senators Ikeda, Baker, Kawamoto, Solomon, Taniguchi.
Managers on the part of the Senate.

Representatives Say, Jones, Kawakami, Marumoto.
Managers on the part of the House.

Conf. Com. Rep. No. 97 on S.B. No. 107

The purpose of this bill, as received by your Committee on Conference, is to transfer the functions and authority of the office of collective bargaining to the department of human resources development.

Upon further consideration, your Committee on Conference finds that section 89-11(d), Hawaii Revised Statutes, provides a process of arbitration for the resolution of an impasse involving disputes between a public employer and the exclusive representative of the optional appropriate bargaining unit (11), firefighters. Your Committee further finds that pursuant to a communication from the Governor dated March 12, 1996, the final and binding decision of the arbitration panel for the appropriate bargaining unit (11), firefighters, has been rendered and appropriations are required to fund the cost items.

Thus, your Committee on Conference has amended this measure by deleting its contents and substituting the following provisions:

- (1) An appropriation of special funds in the amount of \$130,265 in fiscal year 1995-96 and \$406,713 in fiscal year 1996-97 to fund cost items for employees in collective bargaining unit 11;
- (2) An appropriation of special funds in the amount of \$8,000 in fiscal year 1995-96 and \$22,850 in fiscal year 1996-97 to fund salary increases and cost adjustments for excluded employees; and

(3) An effective date of July 1, 1996.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 107, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 107, H.D. 1, C.D. 1.

Senators Kanno, Ikeda, Baker, Anderson.
Managers on the part of the Senate.

Representatives Yonamine, Say, Ito, Suzuki, Marumoto.
Managers on the part of the House.

Conf. Com. Rep. No. 98 on S.B. No. 865

The purpose of this bill as received is to provide for the limited liability of the government for beach, ocean, park, and recreational facilities use.

One of Hawai'i's crowning glories is the beaches that surround each island. Millions of residents and visitors visit the beaches each year for recreation, sport, and relaxation. However, the beaches are a natural resource, untameable by human effort, and are subject to the forces of nature, including dangerous shorebreaks and swift currents. Your Committee finds that an equitable balance must be struck that balances the privilege of enjoying the public beaches and the duty and ability of the government to take reasonable measures to provide adequate warning of potential danger.

Your Committee has amended this bill by removing its contents and replacing it with language that would provide the State and counties with protection from liability for injuries caused by dangerous shorebreaks, strong currents, or other extremely dangerous natural conditions at state and county beach parks.

This bill would establish the duty of the State and counties to warn of dangerous shorebreaks or strong ocean current if the conditions are extremely dangerous, typical for the beach, and if they pose a risk of serious injury or death. Signs approved by the Chairperson of the Board of Land and Natural Resources warning of these conditions shall be conclusively presumed to be legally adequate to warn of these conditions. The bill does not require warning to be given of other extremely dangerous conditions, but permits the State and counties to obtain the same legal presumption for those conditions if the State or county responsible for the beach posts approved warning signs. The bill specifically provides that it will not have an impact on the duties and responsibilities of lifeguards, other than the duty to warn as set out in the bill.

The bill establishes the task force on beach and water safety to consult with the Board of Land and Natural Resources on the design and placement of warning signs, devices, and systems. The bill shall be repealed by operation of law on June 30, 1999.

Your Committee finds that the system established by this bill will increase public safety, reduce ocean-related accidents and injuries, and protect the State and counties from unlimited liability.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 865, 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. 865, S.D. 2, H.D. 2, C.D. 1.

Senators Grauly, Iwase, Matsunaga, Tam.
Managers on the part of the Senate.

Representatives Tom, Ito, Suzuki, White, Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 99 on S.B. No. 2145

The purpose of this bill, as received by your Committee on Conference, is to allow the superintendent of education to acquire land and facilities for public schools through lease-purchase agreements, and to authorize the superintendent to administer the school construction program, including preparing a budget and providing annual reports to the legislature.

Upon further consideration, your Committee on Conference has amended this measure by:

- (1) Deleting the provisions authorizing the superintendent to administer the school construction program, including preparing a budget and providing annual reports to the legislature;
- (2) Authorizing the department of education, rather than the superintendent, to enter into agreements;
- (3) Including authorization to enter into leases for facilities and land;
- (4) Making agreements subject to approval by the comptroller; and
- (5) Making nonsubstantive, technical changes for the purposes of clarity and style.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2145, 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. 2145, S.D. 1, H.D. 2, C.D. 1.

Senators Ikeda, Chumbley, Baker, Kawamoto, Liu.

Managers on the part of the Senate.

Representatives Stegmaier, Say, Kawakami, Tarnas, Anderson.
Managers on the part of the House.

Conf. Com. Rep. No. 100 on S.B. No. 2264

The purpose of this bill is to provide an additional source of funding for legal services for indigent persons through a surcharge on filing fees for civil cases.

Your Committee on Conference finds that the poor often lack the wherewithal to speak up for legal rights many people take for granted. There are certain rights, obligations, and benefits that the poor may not know they have. Often, if allowed or required to be unrepresented, the indigent litigant places greater burdens on the judicial system in terms of time. By placing a surcharge on certain filings in civil actions, the cost of providing for indigent legal services will be spread across a wide band of persons.

Your Committee on Conference has amended this bill by including two more types of civil actions for which no surcharge shall be assessed: petitions for protective orders and actions by any party proceeding on behalf of a county or the State.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2264, 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. 2264, S.D. 2, H.D. 2, C.D. 1.

Senators Ikeda, Grauly, Kawamoto, Solomon, Liu.
Managers on the part of the Senate.

Representatives Tom, Say, M. Oshiro, Saiki, Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 101 on H.B. No. 2452

The purpose of this bill is to establish a timetable to proceed with the conversion to an employer-union trust concept for determining and administering public employee and retiree health benefits.

Specifically, this bill:

- (1) Requires the Director of Finance to establish a committee to develop and recommend a proposal to implement the employer-union trust concept;
- (2) Mandates public employers, public employee organizations, retired public employee organizations, and the Public Employees Health Fund to work together on the proposal;
- (3) Requires the Director of Finance to submit a report of the committee's proposal to the Legislature before the 1997 regular session;
- (4) Repeals chapter 87, Hawaii Revised Statutes (HRS), upon the enactment of legislation establishing an employer-union trust structure and identifying and transferring remaining public employer financial obligations; and
- (5) Prohibits the Public Employees Health Fund from expending unencumbered moneys as of April 1, 1996, for upgrading its existing computer system.

Your Committee has amended this bill by:

- (1) Deleting the provision that retired employee organizations and the Public Employees Health Fund work on the proposal;
- (2) Deleting the provision requiring the repeal of chapter 87, HRS;
- (3) Deleting the section prohibiting the Public Employees Health Fund from expending moneys to upgrade its existing computer system;
- (4) Changing the effective date to upon approval; and
- (5) 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. 2452, 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. 2452, H.D. 3, S.D. 1, C.D. 1.

Senators Ikeda, Kanno, Baker, Solomon, Anderson.
Managers on the part of the Senate.

Representatives Yonamine, Say, Ito, Suzuki, Marumoto.
Managers on the part of the House.

Conf. Com. Rep. No. 102 on H.B. No. 2642

The purpose of this bill is to clarify the Public Employees' Health Fund (Fund) law for those employees who retire from state or county employment.

Upon careful consideration, your Committee on Conference has amended this measure by:

- (1) Clarifying that the provision regarding state and county contributions to the Fund does not apply if an employee is hired prior to July 1, 1996, and transfers employment after June 30, 1996;
- (2) Defining "transfer" as leaving state or county employment and returning to state or county employment within seven calendar days; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity and consistency.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2642, 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. 2642, H.D. 1, S.D. 1, C.D. 1.

Senators Ikeda, Kanno, Baker, Tanaka, Anderson.
Managers on the part of the Senate.

Representatives Yonamine, Say, Isbell, Suzuki, Marumoto.
Managers on the part of the House.

Conf. Com. Rep. No. 103 on H.B. No. 1237

The purpose of this bill is to authorize the University of Hawaii (University) Board of Regents to establish mechanisms so that the University can adopt a plan for the development of its programs and to increase its fiscal autonomy.

This measure also provides for:

- (1) Suspension of unnecessary tuition waivers;
- (2) Authority to the Board of Regents to adopt a tuition schedule; and
- (3) Retention of all tuition and fees collected by the University.

Among the tuition waivers affected were those for the National Guard.

In 1995, general funding for the Hawaii Army and Air National Guard amounted to \$5,100,000. The federal government provides \$141,300,000 to the Hawaii National Guard for its federal mission, particularly the staffing of the 29th Infantry Brigade. The National Guard remains under state control and is also committed to its state mission.

Your Committee finds that there is a compelling state interest to support a strong and viable national guard. The Legislature received overwhelming testimony in support of H.B. No. 3890 and S.B. No. 2374, which established tuition waiver/assistance programs for guard members to attend the University of Hawaii. Senate conferees proposed deleting the contents of the bill and inserting the contents of H.B. No. 3890.

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

- (1) Authorizing the Adjutant General to award tuition assistance to qualified persons in the Hawaii National Guard who are:
 - (A) Residents of the State; and
 - (B) Undergraduate students working toward a degree on any campus of the University;and
- (2) Appropriating \$400,000 for fiscal year 1996-1997 to provide tuition assistance to the Hawaii National Guard.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1257, 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. 1257, H.D. 2, S.D. 2, C.D. 1.

Senators Ikeda, Ige, Iwase, Taniguchi, Liu.
Managers on the part of the Senate.

Representatives Lee, Say, Nekoba, Takai, Marumoto.
Managers on the part of the House.

Conf. Com. Rep. No. 104 on H.B. No. 3583

The purpose of this bill is to provide the University of Hawaii (University) with a greater level of fiscal autonomy by:

- (1) Eliminating the statutorily prescribed categories of students who are deemed exempt from nonresident tuition and fee differentials at the University;
- (2) Authorizing the Board of Regents to waive or reduce tuition fees for students, resident or nonresident;
- (3) Providing for an unspecified percentage of the revenues to be deposited into the University of Hawaii Research and Training Revolving Fund (Fund);
- (4) Removing the \$2,500,000 ceiling on moneys held in the Fund;
- (5) Requiring that no revenues in the Fund be used to reduce University budget requests or allotments unless requested by the University;
- (6) Allowing the Board of Regents to authorize expenditures from this Fund to generate private donations for deposit into the University of Hawaii Foundation; and
- (7) Repealing the provision with respect to financial aid.

Upon careful consideration, your Committee on Conference has amended this measure by:

- (1) Requiring that 100 percent of the total amount of indirect overhead revenues generated by the University from research and training be deposited into the University of Hawaii Research and Training Revolving Fund;
- (2) Authorizing the Board of Regents to expend 84 percent of the revenues deposited in the Research and Training Revolving Fund;
- (3) Clarifying that section 1 is to take effect on January 1, 1997; and
- (4) Making technical, nonsubstantive amendments for purposes of clarity and consistency.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3583, 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. 3583, H.D. 2, S.D. 2, C.D. 1.

Senators Ikeda, Ige, Iwase, Taniguchi, Liu.
Managers on the part of the Senate.

Representatives Lee, Say, M. Oshiro, Shon, Halford.
Managers on the part of the House.

Conf. Com. Rep. No. 105 on H.B. No. 3954

The purpose of this bill is to require the Center for Labor Education and Research (Center) at the University of Hawaii at Manoa to:

- (1) Provide credit and non-credit labor studies courses; and
- (2) Develop or acquire the means necessary to offer credit and non-credit labor studies programs via distance education throughout the State.

Your Committee on Conference notes that this measure is not an expansion of existing programs or a legislative mandate for new programs that would require any additional funds pursuant to Act 161, Session Laws of Hawaii 1995. This measure simply transfers the Center and its current personnel and funding from the University of Hawaii, Manoa campus to the West Oahu campus.

Upon careful consideration, your Committee on Conference has amended this measure by:

- (1) Transferring the Center from the University of Hawaii Manoa campus to the West Oahu campus;
- (2) Repealing the requirement that the Center utilize the smallest practicable permanent staff for its direction and operation;
- (3) Providing that current staffing and funding of the Center be transferred to the University of Hawaii, West Oahu;
- (4) Providing general statutory language regarding the transfer of all officers and employees from one agency to another;
- (5) Providing general statutory language regarding the transfer of records and equipment between agencies; and
- (6) Making technical, nonsubstantive amendments for purposes of clarity and consistency.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3954, 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. 3954, H.D. 2, S.D. 1, C.D. 1.

Senators Ikeda, Ige, Kawamoto, Taniguchi, Liu.

Managers on the part of the Senate.

Representatives Lee, Say, Nakasone, Takumi, Halford.
Managers on the part of the House.

Conf. Com. Rep. No. 106 on H.B. No. 2800

The purpose of this bill is to provide supplemental appropriations for the Executive branch by amending the General Appropriations Act of 1995 (Act 218, Session Laws of Hawaii 1995).

INTRODUCTION

Ten years ago, the State was basking in a period of prolonged and unprecedented economic growth and expansion. Simultaneous booms in the housing, construction, tourism, and business sectors led to several years of sustained and robust economic growth. State expenditures increased and government programs expanded, at a feverish pace. To many people, the strength and growth potential of Hawaii's economy appeared limitless.

For much of this decade, Hawaii's economy has been stagnant--the heady years of sustained growth now only a reminder of better times and the constant need to exercise fiscal restraint. During the 1994 and 1995 legislative sessions, your Committee noted that a positive economic turnaround over the short-term was not about to occur. As predicted, the State has experienced sluggish economic expansion during the past two fiscal years.

Although the Council on Revenues recently adjusted its economic forecast for the 1995-1996 fiscal year from 2.2 per cent growth to 3 per cent growth, the State cannot afford to become complacent about making needed changes to state fiscal policies. A national survey recently rated Hawaii's economy as one of the weakest in the nation. Thus, economic issues, including the lack of new job opportunities, over reliance on tourism, and the high cost of living, continue to burden local businesses and residents.

Your Committee has repeatedly stated that the fiscal policies of the State must be modified to meet the current fiscal crisis. Your Committee has also repeatedly stated that the State must reevaluate and improve fiscal practices to ensure fiscal responsibility in the future. Your Committee advocates strategies such as down-sizing, eliminating duplicative functions, and phasing out programs that are not cost effective.

BUDGET STRATEGIES TO MANAGE THE STATE FISCAL DEFICIT

To deal with the state fiscal deficit, your Committee explored and implemented the following budget strategies.

Budget Cuts

Budget cuts are never easy to make but they were necessary to preclude a potential State fiscal deficit. Your Committee reduced the budget of every department except the Department of Public Safety. Total general fund reductions are approximately \$140,000,000 for fiscal year 1995-1996 and approximately \$130,000,000 for fiscal year 1996-1997.

Not all departments were affected equally by the foregoing budget cuts. Agencies with other funding sources, such as earmarked revenues, were not affected as adversely as agencies that rely wholly on general fund support. As a result, the agencies most impacted by the budget cuts were the Departments of Accounting and General Services, Budget and Finance, Education, Human Services, Health, and the University of Hawaii. Your Committee has been mindful to minimize impacts on state-provided services and the integrity of public service.

Consolidating Programs

Your Committee consolidated programs and departments that have similar functions; such actions will make more effective use of limited personnel and program resources. Additionally, programs have been significantly down-sized to make more effective use of limited resources. Specifically, the Office of Affirmative Action has been abolished and its functions transferred to each of the departments. In addition, the Governor's Agriculture Coordinating Committee has been transferred from the Office of the Governor to the Department of Agriculture to streamline agriculture-related activities such as research and marketing.

Restructuring Programs

Your Committee restructured certain programs to improve their efficiency. For example, your Committee supported the Department of Commerce and Consumer Affairs' continued move toward self-sufficiency. Your Committee approved most of the Department's requests for increases in special and revolving fund expenditures.

In addition, your Committee made the following adjustments with respect to the reorganization of the Office of the Governor:

- (1) The Office of Statewide Volunteer Services and the Office of Information have been folded into the Office of the Governor;
- (2) The Governor's Agriculture Coordinating Committee has been attached to the Department of Agriculture;
- (3) The coastal zone management function and the land use, state plan, and spatial data systems functions of the Office of State Planning have been folded into the Department of Business, Economic Development, and Tourism;

- (4) The at-risk teen, the preschool open doors, and the child care development programs of the Office of Children and Youth have been folded into the Office of Youth Services in the Department of Human Services; and
- (5) The Executive Office on Aging has been attached to the Department of Human Services.

Management Efficiencies

Management efficiency improvements make better use of existing personnel, facilities, and equipment to achieve state program goals. For example, your Committee provided the Department of Commerce and Consumer Affairs with the ability to upgrade the Department's computer equipment, software, and telephone system. These upgrades will allow for faster processing and more information transfer which will save time and resources.

Funding Shifts

To reduce general fund expenditures, your Committee changed the source of funding for certain state programs from general funds to user fees. Such programs provide identifiable, specific benefits to individuals and businesses. For example, in the area of environmental protection, certain environmental protection programs can become self-sufficient. The change in means of financing of certain environmental protection programs can relieve the State of its general fund obligation. This action is expected to decrease general fund expenditures by approximately \$500,000 for fiscal year 1996-1997.

Defer Ongoing Expenditures

Your Committee approved a payroll "lag" of two weeks (or one payroll period) for state employees to provide a one-time savings of \$47,000,000.

Transfer of Surplus Non-General Funds

Your Committee transferred excess moneys from certain special, revolving, and trust funds to the general fund.

COMMITTEE HIGHLIGHTS

Economic Development

With limited prospects of an immediate infusion of revenue to cover the state fiscal deficit, your Committee curtailed or held to a minimum all activities that could have an adverse impact on the economy. The lackluster earnings of the State over the past several years reflect persistent and ongoing weaknesses in Hawaii's economy and require bold and creative leadership. Toward these ends, your Committee has instituted a number of proposals--in this bill and other measures reported out by your Committee--to boost the economic prospects of the State.

Tourism

In recognition of the significant role the visitor industry plays in the economy of the State, your Committee attempted to expand tourism development by appropriating an additional \$2,000,000 for the Hawaii Visitors Bureau to promote Hawaii as a visitor destination, requiring the establishment of an owner-controlled insurance program for the Convention Center, and establishing a Convention Center Training Program to familiarize Convention Center employees with the customs and needs of international convention visitors.

Health

Your Committee recognizes the important role that the State plays in public health care, however, your Committee also realizes that each area of the State's budget must be reduced to deal with our fiscal crisis. During fiscal biennium 1995-1997, health programs and services were restricted by more than \$21,000,000. These restrictions caused the Department of Health to shift available resources from secondary to primary public health programs. Likewise, many of the Department of Health's most crucial programs were forced to take severe reductions. In addition, the Department has been forced to cope with a continual drain on resources due to the United States Department of Justice's settlement agreement with the Hawaii State Hospital and the Felix vs. Cayetano consent decree.

To counteract these public health care budget constraints, your Committee reduced operating funds for various programs and reallocated these funds among the public's more acute areas of concern. Your Committee realizes that the AIDS/STD community is under tremendous strain for prevention and treatment services. In addition, your Committee also understands the effects that both alcohol and drug abuse has on our courts and prison system. Accordingly, moneys for other programs were reallocated for these services.

In keeping with the intent of Act 189, Session Laws of Hawaii 1995, your Committee continued to support the eventual closure of Waimano Training School and Hospital. To further pursue the State's efforts to capture federal revenues, your Committee has added additional funds for the Medicaid waiver program for developmentally disabled persons. These moneys will help to ensure that the deinstitutionalization of Waimano Training School and Hospital continues in a timely manner.

Of major concern to your Committee is the Felix vs. Cayetano consent decree. Because of the consent decree, the Department of Health has been obligated to request an additional \$20,000,000 for the 1995-1997 fiscal biennium. To lessen this impact in the future, your Committee has directed the Department of Health to analyze the cost and service benefits that health care management principles can offer in the State's continued good faith efforts to comply with the consent decree and yet maintain a prudent level of funding.

Human Services

Your Committee remains dedicated to providing for the less fortunate members in our community despite the State's challenging fiscal situation. In anticipation of significant changes to federal funding for human services programs, and faced with rising caseloads in the State's public assistance programs, your Committee supported a number of measures to accommodate these circumstances within the limits imposed by available resources, while still protecting the State's neediest citizens.

Your Committee supported recommendations to restructure the Aid to Families with Dependent Children (AFDC) program in anticipation of federal block granting for the program. Able-bodied individuals receiving AFDC will be expected to work, and will be allowed to keep more of their earned income as an incentive to do so. In addition, the federal government has mandated that an employment assistance program be in place to aid those persons required to work. Therefore, your Committee supported the continuation of the State's newly refocused JOBS program, now known as a first to work program, and has funded the this program with savings from reforms in the AFDC program. Savings from welfare reform have also been allocated to the Office of Youth Services to protect vital programs for at-risk youths.

Your Committee recognizes that the State must also provide assistance for those persons not eligible for the AFDC program. The General Assistance (GA) program, despite reduced funding, will continue to provide time-limited assistance for this group. In addition, your Committee supported measures that will ensure that those persons most in need can be covered in other programs as well. Many among the disabled population will be supported in the Payments to Assist the Aged, Blind and Disabled Program, while GA families will be supported in the AFDC program following an expected federal rule change.

The State's success in providing health care for its most vulnerable citizens has been commended around the nation, but success in the form of broad participation in the QUEST program has also led to rising costs. In addition, a recent lawsuit has threatened to increase costs further. Therefore, your Committee supported health care measures that will preempt action by the courts and contain costs within the current appropriation, while providing quality, affordable health care.

Education

Once again, supporting education is your Committee's highest priority. Through the restoration of proposed budget cuts and by providing for the Department of Education's workload needs, your Committee has reaffirmed its commitment to one of the most fundamental of state institutions: the classroom. Your Committee has been deeply troubled by the air of alarm surrounding the issue of funding for public schools. The education of Hawaii's children must be driven by reason, not panic.

Currently, one out of every four dollars received by the state general fund from taxes and other sources is allocated to the Department of Education. When factoring in the education-related costs of other departments, this figure climbs to one out of every three dollars. Given the fact that eighteen other departments, including the University of Hawaii, vie for the remaining two-thirds of the state general funds, the portion of the budget devoted to the Department of Education reflects the Governor's and Legislature's strong commitment to education. This is not to say that additional funding for education is not warranted--your Committee does not subscribe to this view. Rather, your Committee will continue its efforts to find more resources that can be provided directly to the classroom.

Your Committee's first priority was to meet the Department of Education's workload increase. During fiscal year 1995-1996, the Department of Education was required to reallocate one hundred three non-instructional teaching positions back to the classroom. Of the positions identified by the Legislature, the Department successfully reassigned thirty-three positions.

While your Committee has questions surrounding the inability of the Department to make a more sincere effort in meeting this mandate, your Committee must concern itself first with ensuring that there are adequate levels of staffing for Hawaii's classrooms. To this end, your Committee has authorized the establishment of and provided funds for seventy-seven new instructional positions. These positions represent just a part of the \$6,700,000 in funding for new teachers and school-level administration, custodians and cafeteria workers, resources for new facilities, and projected increases in utilities costs. With this budget, your Committee has ensured that adequate resources are maintained for the regular instructional program.

Your Committee was also concerned with the reductions to the A+ after-school instructional program. While fee increases for the A+ program were inevitable, your Committee was able to restore \$1,500,000 in funds for the program. Your Committee feels that quality, supervised after-school care is invaluable to Hawaii's working families, who already have too few child care options.

Through this budget, your Committee has also addressed the most pressing issues brought forward under the Felix vs. Cayetano consent decree regarding mental health and education services for children. In a recent status conference, the federal monitor overseeing the State's implementation of the system observed that "the practice of education and the provision of services has not significantly changed or improved for class members during the past 18 months."

In reviewing the consent decree budget submitted by the Department of Education, your Committee provided \$1,300,000 in funding and staffing for the most immediate needs, including special education positions, home and hospital instruction, staffing for summer school for the disabled, and funding for the implementation administration.

Higher Education

Because of the magnitude of the budget reductions already imposed upon the University of Hawaii, your Committee believes that the University cannot sustain further reductions in the 1996-1997 fiscal year. Your Committee finds that the

\$14,000,000 in budget reductions proposed for the University by the Governor are too severe. Accordingly, your Committee did not approve the budget reductions proposed by the Governor.

Instead of imposing further budget reductions on the University of Hawaii, your Committee believes that the University should be granted the flexibility to deal creatively with its fiscal problems. The Legislature demonstrated its commitment to this approach with the passage of Act 161, Session Laws of Hawaii 1995, which enabled the University of Hawaii to exercise greater flexibility over the use of tuition revenues. In keeping with this philosophy, your Committee fully supported measures to:

- (1) Assist in the University of Hawaii's effort to move toward becoming a more autonomous entity;
- (2) Establish a mechanism to allow the community colleges to address fiscal problems more effectively;
- (3) Allow the University to assess and retain certain fees as a source of additional revenue; and
- (4) Make adjustments to the University's non-general fund expenditure ceiling to provide it with greater flexibility to apply and distribute revenues received from tuitions.

Public Safety

Your Committee took steps to address the two major issues confronting public safety: prison overcrowding and substance abuse. Ten positions and \$295,915 were appropriated for a new eighty-bed dormitory at the Maui Community Correctional Center. In addition, thirty-three positions and \$1,069,088 were appropriated for the new sixty-four-bed Olomana Cottage at the Women's Community Correctional Center to comply with consent decree mandates.

In an ongoing effort to control prison overcrowding, your Committee appropriated funds to transfer three hundred Hawaii inmates to a correctional facility in the State of Texas. An emergency appropriations bill was passed by the Legislature to fund the first six months of this transfer, and \$4,599,000 was appropriated for the second year of a three-year contract to house these inmates in Texas. The transfer of these inmates is expected to save the State of Hawaii approximately \$672,000 per year.

Steps have been taken to better address the current substance abuse epidemic within Hawaii's inmate population. The successful KASHBOX drug treatment program was provided an additional four positions and \$177,450. Because inmates are physically transferred to the KASHBOX program, this drug treatment program also frees up much needed bed space within other correctional facilities.

SUMMARY

Your Committee finds that this budget addresses the needs of the State within the constraints of the current fiscal crisis. This budget represents a responsible financial plan reflecting the current economic downturn while addressing the needs of the State.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2800, 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. 2800, H.D. 1, S.D. 1, C.D. 1.

Senators Ikeda, Baker, Bunda, Fernandes Salling, Fukunaga, Kanno, Kawamoto, Solomon, Tanaka, Taniguchi, Liu.

Managers on the part of the Senate.

Representatives Say, Abinsay, Chang, Isbell, Ito, Jones, Kahikina, Kanoho, Kawakami, Nakasone, Nekoba, M.

Oshiro, Suzuki, Marumoto, Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 107 on H.B. No. 3300

The purpose of this bill is to provide the supplemental appropriations for the Office of Hawaiian Affairs (OHA) by amending the biennial budget (Act 19, Special Session Laws of Hawaii, 1995).

Your Committee finds that although OHA did not submit any proposed revisions to the biennium budget, fiscal conditions in the State require that budgets for all agencies be scrutinized carefully.

The discussion, however, did raise the possibility of OHA assuming more responsibility for the funding of its personnel. Your Committee felt that because OHA does provide services to individuals not meeting the blood quantum requirement, using the trust to wholly fund these positions would be inappropriate at this time. After review, your Committee felt that OHA could increase its share of the funding of some positions from fifty percent trust funded to seventy-five percent trust funded. This measure reflects this revised funding schedule.

In addition to a review of funding for personnel, your Committee also reviewed expenditures made for travel and found that OHA had spent substantial amounts of both trust and general funds for travel, subsistence, and vehicle rental. Your Committee recommended that given these austere times, general funds supporting travel for OHA should be eliminated.

Finally, in Report No. 93-28, "Management and Financial Audits of the Office of Hawaiian Affairs," the Legislative Auditor found that OHA and the Legislature treat OHA's revenues from the public land trust as "special funds" when they should be designated as "trust funds." The Legislative Auditor recommended that the Legislature change the designation

of the "Means of Financing" of OHA's public land trust revenues from "special funds" to "trust funds" in all budget and fiscal related matters.

In response to the Legislative Auditor's recommendations, this measure amends Act 19 to change the designation of the means of financing of appropriated items from "special funds" to "trust funds."

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3300, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3300, S.D. 1, C.D. 1.

Senators Ikeda, Baker, Bunda, Fernandes Salling, Fukunaga, Kanno, Kawamoto, Solomon, Tanaka, Taniguchi, Liu.
Managers on the part of the Senate.

Representatives Say, Abinsay, Chang, Isbell, Ito, Jones, Kahikina, Kanoho, Kawakami, Nakasone, Nekoba, M. Oshiro, Suzuki, Marumoto, Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 108 on H.B. No. 3650

The purpose of this bill is to provide the supplemental appropriations for the Judiciary by amending the Judiciary Appropriations Act of 1995 (Act 18, Special Session Laws of Hawaii, 1995).

In keeping with the departments of the executive branch, the Judiciary identified reductions of almost \$4,400,000 for fiscal year 1995-1996. Your Committee was encouraged to see the Judiciary voluntarily make these reductions and has applauded its effort to provide greater scrutiny over its expenditures.

Of the amounts reduced in fiscal year 1996-1997, the Judiciary requested to reallocate approximately \$2,200,000 for various expenses.

The revised budget, while requesting the reallocation of reduced funds, reflected a total that was still \$1,900,000 less than what was previously budgeted for the prior fiscal year.

While your Committee recognizes the efforts of the Judiciary in reducing expenditures to keep in line with the rest of state government, it feels the funds for new activities and equipment should be limited to maintaining core functions of the Judiciary and the general protection of the public.

With this in mind, your Committee provided funding for the following:

- (1) Increased authorization for the Supreme Court Law Library for reference materials;
- (2) Increased security for the Circuit and Family Courts;
- (3) Necessary repair and maintenance of air-conditioning, facilities, and the video arraignment and court conferencing systems;
- (4) Restoration of funds lost as a result of the early retirement incentive plan (ERIP);
- (5) Purchase of courtroom computers and computer data cabling;
- (6) Attorney's fees for Family Courts; and
- (7) Restoration of executive restrictions for the Domestic Violence Legal Hotline and Domestic Violence Clearinghouse Services.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3650, 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. 3650, H.D. 1, S.D. 1, C.D. 1.

Senators Ikeda, Baker, Bunda, Fernandes Salling, Fukunaga, Kanno, Kawamoto, Solomon, Tanaka, Taniguchi, Liu.
Managers on the part of the Senate.

Senator Grauly did not sign the report.

Representatives Say, Abinsay, Chang, Isbell, Ito, Jones, Kahikina, Kanoho, Kawakami, Nakasone, Nekoba, M. Oshiro, Suzuki, Marumoto, Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 109 on H.B. No. 2644

The purpose of this bill is to enable the State and the counties to meet their obligations to public employees for contributions to the Employees' Retirement System (ERS), while providing them with additional cash flow to meet pressing public needs.

More specifically, this bill would:

- (1) Delete the provision requiring the State and counties to pay additional amounts required to meet the investment yield rate for each preceding year;
- (2) Delete the provision to accelerate liquidation of unfunded benefit obligations of the ERS by the State and counties; and
- (3) Reduce state and county contributions to the ERS by:
 - (a) Revising the actuarial valuations of the ERS for the years ending June 30, 1994, to June 30, 2000; and
 - (b) Reducing the assumed salary increase rate for determining the actuarial valuations from 6.5 to 4 percent.

Your Committee has amended this bill by deleting its contents and inserting amendments that would:

- (1) Delete the provision to accelerate liquidation of unfunded benefit obligations of the ERS by the State and counties; and
- (2) Authorize the ERS to employ or retain an attorney.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2644, 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. 2644, H.D. 1, S.D. 2, C.D. 1.

Senators Ikeda, Kanno, Baker, Solomon, Anderson.
Managers on the part of the Senate.

Representatives Yonamine, Say, Nakasone, Suzuki, Marumoto.
Managers on the part of the House.

Conf. Com. Rep. No. 110 on H.B. No. 3340

The purpose of this bill is to amend the duties of the Comptroller to improve government operations, resulting in savings to the State.

Specifically, this bill:

- (1) Gives the Department of Accounting and General Services discretion in whether to preaudit Executive Branch proposed payments of less than \$10,000;
- (2) Eliminates the requirement to publish the State's annual financial statements in a newspaper;
- (3) Allows the Department of Human Services to implement an electronic benefits transfer system for financial assistance and food stamps; and
- (4) Establishes specific procedures for collecting overpayments of salary or wages.

Your Committee has amended this bill by providing that a person whose salary is to be withheld for indebtedness to the government has fifteen days to request a hearing or the person will be deemed to have waived the right to a hearing.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3340, 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. 3340, H.D. 1, S.D. 1, C.D. 1.

Senators Ikeda, Baker, Fernandes Salling, Solomon, Liu.
Managers on the part of the Senate.

Representatives Say, Kahikina, Kanohe, Kawakami, Nakasone, Marumoto.
Managers on the part of the House.

Conf. Com. Rep. No. 111 on H.B. No. 3342

The purpose of this bill is to improve the administration of the Interagency Federal Revenue Maximization Revolving Fund (Fund) by:

- (1) Providing for deposit into the Fund all proceeds collected from third-party payors;
- (2) Specifying that up to twenty percent of the maximized revenues received by the State for services attributable to the Department of Human Services be appropriated for state or federally mandated programs; and
- (3) Appropriating funding to pay for the contracted consultants for the Federal Revenue Maximization Project for fiscal years 1996-1997 and 1997-1998.

Upon careful consideration, your Committee on Conference has amended this measure by:

- (1) Deleting the provision specifying that up to twenty percent of the maximized revenues received by the State for services attributable to the Department of Human Services be appropriated for state or federally mandated programs; and
- (2) Appropriating \$2,000,000 for fiscal year 1996-1997 to meet federal funding match requirements for state or federally mandated programs administered by the Department of Human Services and the same for programs administered by the Department of Health; provided that funds be released on the basis of \$1 of general revenues for every \$5 of revenues received for services attributable to the respective departments.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3342, 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. 3342, H.D. 1, S.D. 1, C.D. 1.

Senators Ikeda, Baker, Fukunaga, Kawamoto, Solomon, Liu.
Managers on the part of the Senate.

Representatives Say, Kahikina, Kanoho, Kawakami, Nakasone, Marumoto.
Managers on the part of the House.

Conf. Com. Rep. No. 112 on H.B. No. 3389

The purpose of this bill is to avoid jeopardizing the ratings of the State's bonds by establishing policies and controls over lease purchase transactions used to acquire facilities and equipment.

Your Committee has amended this bill by:

- (1) Authorizing the Director of Finance to petition the Supreme Court for an opinion on whether municipal leases count against the State's debt limit;
- (2) Deleting requirements for approval by the Attorney General beyond form and legality;
- (3) Increasing the scope of review of the Director of Finance by deleting the provision limiting the review to financial reasonableness; and
- (4) Making technical, nonsubstantive changes for purposes of style and clarity.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3389, 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. 3389, H.D. 1, S.D. 1, C.D. 1.

Senators Ikeda, Fernandes Salling, Kawamoto, Solomon, Liu.
Managers on the part of the Senate.

Representatives Say, Kanoho, Kawakami, Nakasone, Marumoto.
Managers on the part of the House.

Conf. Com. Rep. No. 113 on H.B. No. 3554

The purpose of this bill is to authorize the Department of Taxation to replace its computer systems with new, modernized integrated tax systems. The bill also limits financing agreements entered into for this purpose to ones which will result in a total savings of at least \$5,000,000 over the life of the agreement.

Your Committee has amended this bill by:

- (1) Providing the appropriation over a two-year period rather than divided between each year; and
- (2) Requiring that the director of finance not approve any financing arrangement if it will not result in increased tax collections and savings of at least \$5,000,000 over the life of the performance-based contract.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3554, 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. 3554, H.D. 1, S.D. 1, C.D. 1.

Senators Ikeda, Baker, Kawamoto, Taniguchi, Liu.
Managers on the part of the Senate.

Representatives Say, Kanoho, Kawakami, Suzuki, Marumoto.
Managers on the part of the House.

Conf. Com. Rep. No. 114 on H.B. No. 3565

The purpose of this bill is to prevent the application of qualified property leases, or the creation or release of liens or encumbrances, as bulk sales or transfers under the General Excise Tax Law.

In 1995, the Legislature passed two conflicting measures affecting bulk sales and transfers. Act 120, Session Laws of Hawaii (SLH) 1995, strengthened penalty provisions of bulk sales and transfers, while Act 92, SLH 1995, deleted existing penalty provisions.

Your Committee on Conference has amended this measure to rectify this error by repealing section 14 of Act 92, SLH 1995, which deleted penalty provisions for bulk sales and transfers.

In addition, your Committee on Conference has also amended this bill by making technical, nonsubstantive amendments for purposes of clarity and style.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3565, 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. 3565, H.D. 1, S.D. 1, C.D. 1.

Senators Ikeda, Baker, Kawamoto, Taniguchi, Liu.
Managers on the part of the Senate.

Representatives Say, Kanoho, Kawakami, Nakasone, Marumoto.
Managers on the part of the House.

Conf. Com. Rep. No. 115 on H.B. No. 3852

The purpose of this bill is to facilitate the issuance of special purpose revenue bonds to ETV Hawaii/Elephant Television, Inc., by authorizing the issuance of taxable special purpose revenue bonds, increasing the authorized amount of the special purpose revenue bonds from \$6,000,000 to \$8,000,000 and extending the lapsing date for issuance from June 30, 1998 to June 30, 2001, so that the five year delay would not be held against ETV Hawaii/Elephant Television.

The goal of ETV Hawaii/Elephant Television, Inc. is to provide television and film industry production and training to Hawaii's residents. Part of that effort involves creating a full service film and television production facility in the State. Your Committee believes that a film and television production facility will accrue positive economic benefits and opportunities for Hawaii's film, television, and computer industries.

Under Hawaii law, any interest received from special revenue bonds are exempt from gross income tax. The interest on state bonds are also generally exempt from federal taxation provided that Internal Revenue Code Section 103 applies. However, it is your Committee's understanding that when the special revenue bonds are not tax-exempt under the Internal Revenue Code, that under current state law, the legislature must explicitly authorize the issuance of special revenue bonds which are taxable for federal purposes.

The legislature first authorized the issuance of special purpose revenue bonds under Act 278, Session Laws of Hawaii (SLH) 1991, to assist ETV Hawaii/Elephant Television, Inc., as a processing enterprise. Act 278, SLH 1991, was amended two years later by Act 240, SLH 1993, to reclassify the issuance under part V of chapter 39A, Hawaii Revised Statutes, as an industrial enterprise. It became apparent that under current federal tax law, these bonds would not qualify under the Internal Revenue Code as Section 103 tax exempt state bonds and could therefore, not be issued as tax exempt bonds.

Accordingly, your Committee has amended this bill by:

- (1) Increasing the amount of the bonds from \$8,000,000 to \$10,000,000; and
- (2) Changing the effective date from July 1, 1997, to become effective upon approval.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3852, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3852, S.D. 2, C.D. 1.

Senators Ikeda, Matsunaga, Baker, Fukunaga, Liu.
Managers on the part of the Senate.

Representatives Herkes, Nakasone, Jones, White, Marumoto.
Managers on the part of the House.

Conf. Com. Rep. No. 116 on H.B. No. 3968

The purpose of this bill is to statutorily establish the Hawaii Employers' Mutual Insurance Company (HEMIC).

The bill also provides the Insurance Commissioner with the power to aggressively pursue savings realized by the reforms made to the State's workers' compensation laws that were enacted in Act 234, Session Laws of Hawaii 1995, by authorizing the Insurance Commissioner to annually review rates and, if necessary, pass on savings to insureds in the assigned risk pool in the form of reduced premiums.

HEMIC replaces the existing workers' compensation assigned risk pool to provide workers' compensation coverage for Hawaii employers, including employers who have in good faith, but without success, sought workers' compensation insurance in the voluntary market.

Your Committee finds that an adequate and available workers' compensation insurance market is necessary for the economic welfare of the State, and that without workers' compensation insurance, the orderly growth and economic

development of the State would be impeded. Adequate insurance for worker's compensation is necessary to enable employers to satisfy their legal obligation under chapter 386, Hawaii Revised Statutes.

The workers' compensation assigned risk pool was established to provide coverage for employers whose job classifications have a high risk of employee injury or illness. However, many Hawaii businesses have been placed in the assigned risk pool merely because they are small businesses, not because they are high risks. The assigned risk pool is a growing market that has increased steadily for the last ten years and presently is the largest market share of workers' compensation insurance. For policy year 1994, approximately thirty per cent of Hawaii's businesses were in the assigned risk pool.

Your Committee also finds that at least four states have established employers' mutual insurance companies in response to workers' compensation problems in their states. The policyholders of these companies are actively involved in the running of the companies. These entities write a significant market share in their respective state and provide a full range of workers' compensation services.

The purpose of HEMIC would be to provide:

- (1) Workers' compensation coverage to employers of the State at the highest level of service with the lowest possible cost, consistent with reasonable applicable actuarial standards and the sound financial integrity of the company; and
- (2) The highest standard of workplace safety and loss prevention to encourage employer involvement and to respond to each policyholder's experience, practice, and operating effectiveness.

HEMIC would be allowed to issue debentures once, payable solely from premiums received from insurance policies and other revenues received by the company for the initial operating expenses of the company.

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

- (1) Making extensive technical, nonsubstantive amendments to ensure the proper administration of HEMIC;
- (2) Removing the state and county government division from HEMIC's membership;
- (3) Reducing the number of voting board members to eight division members and one public, at-large member to reflect the deletion of the state and county government division;
- (4) Reducing the terms of three, four, and five years of the initial board members of HEMIC who are appointed by the governor to one year terms;
- (5) Reducing the term of the initial public, at-large board member of HEMIC who is appointed by the board to a one year term;
- (6) Allowing the initial board members to determine the length and staggering of future board members;
- (7) Prohibiting any single term of a board member from exceeding three years; and
- (8) Adding a section to the bill that reestablishes the assigned risk pool in the event that HEMIC's Certificate of Authority is revoked by the Insurance Commissioner.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3968, 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. 3968, H.D. 2, S.D. 1, C.D. 1.

Senators Kanno, Ikeda, Baker, Solomon, Taniguchi, Liu.
Managers on the part of the Senate.

Senator Kawamoto did not sign the report.

Representatives Yonamine, Menor, Say, Suzuki, Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 117 on H.B. No. 3512

The purpose of this bill is to:

- (1) Improve the administration of the workers' compensation law;
- (2) Reduce workers' compensation costs;
- (3) Facilitate compliance with Act 234, Session Laws of Hawaii (SLH) 1995; and
- (4) Provide workers' compensation insurance coverage to volunteer police chaplains.

Upon careful consideration, your Committee on Conference has amended this measure by:

- (1) Limiting the medical examination fees for examinations ordered by the Director of Labor;

- (2) Requiring the Insurance Commissioner to effect a moratorium and not approve any rate level increase in workers' compensation insurance during the period July 1, 1996, to January 31, 1997;
- (3) Requiring all authorized insurers transacting workers' compensation insurance in the voluntary market in this State to:
 - (A) Identify overall cost savings resulting from the implementation of Act 234, SLH 1995; and
 - (B) Apply the cost savings as a rate reduction of the rates for all policies containing workers' compensation coverage;
- (4) Requiring the workers' compensation residual market to:
 - (A) Identify overall cost savings resulting from the implementation of Act 234, SLH 1995;
 - (B) Apply the cost savings as a rate reduction of the rates for all policies containing workers' compensation coverage; and
 - (C) Apply, equitably to all policyholders, any cost savings from the implementation of Act 234, SLH 1995;
- (5) Requiring any workers' compensation rating or advisory organization to:
 - (A) Identify overall cost savings resulting from the implementation of Act 234, SLH 1995; and
 - (B) Apply the cost savings to a prospective loss cost that is in effect and filed during the period from November 1, 1997, to October 31, 1998;
- (6) Providing that in the event the Hawaii Employers' Mutual Insurance Company (HEMIC) begins issuing policies, HEMIC is required to:
 - (A) Identify overall cost savings in its rate filings resulting from the implementation of Act 234, SLH 1995, and H.B. No. 3968; and
 - (B) Apply, equitably to all policyholders, any cost savings to all workers' compensation insurance policies issued and annually renewed through January 31, 1999;
- (7) Requiring that all rates or loss costs for workers' compensation insurance comply with the provisions contained in chapter 431, Hawaii Revised Statutes; and
- (8) Making technical, nonsubstantive amendments for purposes of clarity and consistency.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3512, 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. 3512, H.D. 2, S.D. 1, C.D. 1.

Senators Kanno, Ikeda, Baker, Kawamoto, Solomon, Taniguchi, Liu.
Managers on the part of the Senate.

Representatives Yonamine, Menor, Tom, Say, Suzuki, Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 118 on H.B. No. 3548

The purpose of this bill is to make an emergency appropriation for the Department of Public Safety (PSD) for fiscal year 1995-1996 to reimburse the PSD programs for program funds expended to transfer 300 inmates to correctional facilities in Newtown County, Texas.

Your Committee has amended this bill by:

- (1) Inserting \$2,463,750 as the amount to be appropriated for reimbursing the various programs of PSD for funds taken from such programs and expended to transfer 300 inmates to correctional facilities in Texas;
- (2) Deleting the reference to Newtown County;
- (3) Deleting the language which pertains to exceeding the general fund expenditure ceiling; and
- (4) Making technical, nonsubstantive amendments for purposes of clarity and consistency.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3548, 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. 3548, H.D. 1, S.D. 2, C.D. 1.

Senators Ikeda, Grauly, Baker, Kawamoto, Liu.
Managers on the part of the Senate.

Representatives McMurdo, Say, Abinsay, Case, Meyer.
Managers on the part of the House.

Conf. Com. Rep. No. 119 on H.B. No. 3505

The purpose of this bill is to:

- (1) Attach the Reproductive Rights Protection Committee (Protection Committee) to the Department of Health (DOH) for administrative purposes instead of the State Planning Council on Developmental Disabilities; and
- (2) Eliminate the Protection Committee's authority to hire staff.

Your Committee on Conference has amended this bill by deleting the provision that the Act not be implemented until a memorandum of understanding between the DOH and the Protection Committee has been executed and submitted to the Governor as it is your Committee's understanding that such condition has been satisfied.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3505, 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. 3505, H.D. 1, S.D. 1, C.D. 1.

Senators Ikeda, Levin, Baker, Kanno, Liu.
Managers on the part of the Senate.

Representatives Tom, Say, Isbell, White, Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 120 on H.B. No. 3528

The purpose of this bill is to ensure fair procedures and access to compensation for victims of crime under the Criminal Injuries Compensation Act by:

- (1) Specifying the period an applicant who is dissatisfied with a determination by the administrator of the Criminal Injuries Compensation Commission has to file a written appeal as within sixty days of the mailing of a certified copy of the decision and order;
- (2) Setting the cap on reasonable attorney's fees for an award in excess of \$1,000 from no more than fifteen per cent of the award to a maximum of \$150;
- (3) Amending the law to allow the commission to reconsider their order or decision in the absence of an appeal;
- (4) Clarifying that the time period an applicant aggrieved of a decision by the commission may request reconsideration is within thirty days of mailing the order to the applicant's last known address;
- (5) Expanding the persons eligible for compensation from family members to any person who has incurred expenses on account of a deceased victim's injuries and death; and
- (6) Allowing the denial of a claim in its entirety if an applicant makes a false statement or representation of a material fact.

Your Committee on Conference has amended this bill by providing that if the claim has already been paid and the applicant has made a false statement or representation of a material fact then the applicant will be required to reimburse the commission.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3538, 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. 3538, H.D. 2, S.D. 1, C.D. 1.

Senators Ikeda, Grauly, Fernandes Salling, Fukunaga, Liu.
Managers on the part of the Senate.

Representatives Tom, Say, M. Oshiro, Yoshinaga, Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 121 on H.B. No. 3656

The purpose of this bill is to establish a trust fund for the benefit of the Judiciary History Center (Center) and authorize the operation of a concession at the Center.

Your Committee on Conference has amended this bill by:

- (1) Clarifying that the trust fund shall consist of private, federal, and public contributions, which do not include any state funding;
- (2) Referring to the friends of the Judiciary History Center in this bill as the "friends";
- (3) Defining the purposes of the Center through reference to section 6F-5; and

- (4) Specifying that any blind vendor operating a vending facility before January 1, 1996, not be displaced.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3656, 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. 3656, H.D. 2, S.D. 2, C.D. 1.

Senators Ikeda, Grauly, Anderson.
Managers on the part of the Senate.

Representatives Tom, Say, Kahikina, White, Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 122 on H.B. No. 2729

The purpose of this bill is to make the Hawaii Omnibus Criminal Forfeiture Act permanent and to ensure that it is fair to persons claiming an interest in the property subject to forfeiture by:

- (1) Creating an affirmative defense which limits the scope of the forfeiture judgment to the extent that it is grossly disproportionate to the owner's conduct and the considerations to be used by the court in making a determination;
- (2) Changing the State's initial burden of proof standard in section 712A-12, Hawaii Revised Statutes, from that of "probable cause" to the higher standard of "preponderance of the evidence" that a defendant's property is subject to forfeiture;
- (3) Allowing both the defendant and the State the right to present evidence and witnesses, and to cross-examine the witnesses, in a forfeiture proceeding; and
- (4) Making the Hawaii Omnibus Criminal Forfeiture Act permanent by repealing its sunset provision.

Your Committee on Conference has amended this bill by:

- (1) Replacing the purpose clause in the bill;
- (2) Replacing the affirmative defense language with the previous excessive forfeiture provisions which require an owner to prove that a forfeiture is grossly disproportionate to the nature and severity of the owner's conduct and specifies the criteria that the court may use in making this determination; and
- (3) Correcting the language by 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. 2729, 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. 2729, H.D. 2, S.D. 1, C.D. 1.

Senators Ikeda, Grauly, Solomon, Tanaka, Liu.
Managers on the part of the Senate.

Representatives Tom, Say, Nekoba, White, Yamane, Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 123 on H.B. No. 50

The purpose of this bill is to enable the Commission on Persons with Disabilities (Commission) to better implement accessibility guidelines for persons with disabilities by, among other things:

- (1) Requiring that plans and specifications for the construction of public buildings and facilities of the State and counties, subject to chapter 103, Hawaii Revised Statutes (HRS), be prepared so the buildings and facilities:
 - (a) Are accessible to and usable by persons with disabilities; and
 - (b) Conform to the Americans with Disabilities Act Accessibility Guidelines as adopted and amended by the Architectural Access Committee;
- (2) Deleting the provision requiring the Comptroller and the Director of Finance to provide an annual report to the Legislature of the buildings and facilities donated to the State and counties during the year;
- (3) Allowing the Architectural Access Committee, instead of the Director of Health, to adopt rules pursuant to chapter 91, HRS;
- (4) Reducing the number of:
 - (a) Members on the Hawaii State Coordinating Council on Deafness (Council) from thirteen to five members; and
 - (b) Deaf, hard-of-hearing, or deaf-blind persons, or immediate family members of the Council from seven to three members, and requiring that those persons be knowledgeable about communication access;

- (5) Deleting the island residency requirements with respect to the appointment of Council members by the Governor;
- (6) Requiring the Council to maintain a list of providers of communication access services and their level of qualifications;
- (7) Deleting provisions requiring the Council, subject to legislative appropriations, to coordinate the payment of interpreter services under chapter 103, HRS;
- (8) Eliminating the requirement exempting the hiring of the Architectural Access Committee staff from the Civil Service Law and the Compensation Law;
- (9) Deleting the quorum requirement of the Commission.

Your Committee on Conference has amended this bill by reinstating the requirement that the Council coordinate the payment of interpreter services.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 50, 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. 50, H.D. 2, S.D. 2, C.D. 1.

Senators Ikeda, Baker, Fernandes Salling, Solomon, Taniguchi, Anderson.
Managers on the part of the Senate.

Representatives Tom, Chun Oakland, Say, White, Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 124 on H.B. No. 3344

The purpose of this bill is to appropriate funds to satisfy claims against the State for overpayment of taxes, refunds, reimbursements, payments of judgments or settlements, or other liabilities.

At the request of the Attorney General, your Committee has amended this bill by adding thirteen additional claims that were recently settled by the State.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3344, 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. 3344, H.D. 2, S.D. 1, C.D. 1.

Senators Ikeda, Baker, Bunda, Fukunaga, Liu.
Managers on the part of the Senate.

Representatives Tom, Say, Nekoba, Saiki, Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 125 on H.B. No. 2636

The purpose of this bill is to establish an electronic prescription accountability system to monitor the prescribing and dispensing of certain controlled substances.

Your Committee has amended this bill by changing the sum appropriated from \$1 to \$170,000.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2636, 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. 2636, H.D. 2, S.D. 1, C.D. 1.

Senators Ikeda, Grauly, Fukunaga, Solomon, Liu.
Managers on the part of the Senate.

Representatives Pepper, Tom, Say, Hamakawa, White, Anderson.
Managers on the part of the House.

Conf. Com. Rep. No. 126 on H.B. No. 3493

The purpose of this bill is to create a special fund for the deposit of revenues derived from newborn metabolic screening services to be used for supporting related expenditures.

Your Committee advocates screening newborn infants for metabolic diseases, and this bill creates a funding mechanism for that purpose. In this regard, your Committee is adamant that expenditures from the special fund focus on the identification of metabolic diseases among newborns rather than the creation of a bureaucracy that perpetuates itself for its own sake.

The bill has been amended by:

- (1) Inserting the amount of \$4.00 as the charge to birthing facilities for each newborn screening kit;

- (2) Requiring the panel to submit the plan to provide newborn screening services no later than twenty days prior to the convening of the Regular Session of 1997 instead of no later than December 31, 1996; and
- (3) 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. 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 Ikeda, Levin, Baker, Taniguchi, Liu.
Managers on the part of the Senate.

Representatives Pepper, Kawakami, Abinsay, Chun Oakland, Anderson.
Managers on the part of the House.

Conf. Com. Rep. No. 127 on H.B. No. 3498

The purpose of this bill is to:

- (1) Allow the Director of Health (Director) to appoint, exempt from civil service requirements and subject to designated salary caps, certain Hawaii State Hospital positions;
- (2) Replace the children's mental health services branch of the Department of Health (DOH) with a children's mental health services division (Division) to coordinate the delivery of services to children and youth through a private managed care organization and oversee the execution of the contract;
- (3) Abolish the DOH's statewide interdepartmental cluster for services to children;
- (4) Eliminate the children's mental health services teams and their functions within each community mental health center.
- (5) Have the Division, rather than the children's mental health services teams, coordinate with the schools in identifying and referring for treatment children in need of mental health services;
- (6) Make the DOH responsible for carrying out the terms of any adjudication or settlement of any legal action involving children's mental health; and
- (7) Authorize the Director to create twenty positions exempt from civil service requirements to carry out the purposes of the Act; provided that the twenty positions are eliminated on July 1, 2001.

After careful consideration, your Committee has amended this bill by deleting most of its provisions and retaining only the language in the bill that:

- (1) Authorizes the Director to appoint, exempt from civil service requirements, positions for the Hawaii State Hospital; and
- (2) Provides that the DOH is responsible for the coordination of carrying out the terms of any adjudication or settlement of legal action involving the delivery of children's mental health services in Hawaii.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3498, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3498, S.D. 2, C.D. 1.

Senators Ikeda, Kanno, Kawamoto, Taniguchi, Liu.
Managers on the part of the Senate.

Representatives Pepper, Say, Chun Oakland, Kawakami, Marumoto, Stegmaier.
Managers on the part of the House.

Conf. Com. Rep. No. 128 on H.B. No. 3332

The purpose of this bill is to permit the Governor, by executive order, to grant an exemption from the State's animal quarantine requirements to resident guide dogs, service dogs, and signal dogs (collectively defined as "utility dogs"). Under the bill, resident utility dogs would be allowed to depart from and return to Hawaii for travel to and from the continental United States or Alaska to obtain necessary medical treatment for their handicapped handlers, without the need for quarantine, subject to specific requirements.

Your Committee recognizes the need for a sound and safe animal quarantine program to protect the safety, health, and well-being of Hawaii's residents. In this regard, your Committee has considered the Department of Agriculture's efforts to examine alternative rabies prevention safeguards, including the recent rabies risk assessment report entitled, "An Alternative Rabies Prevention Program." While these alternatives are being taken into account by the Board of Agriculture, your Committee believes that there is need to enable handicapped persons and persons with special needs to travel abroad with their utility dogs (guide dogs, signal dogs, and service dogs) for medical and personal reasons. This bill would allow the Governor, by executive order, to enable these persons to travel with their utility dogs, subject to stringent safeguards and requirements. In these cases, the Governor would determine the medical exemptions.

Your Committee has amended this bill by:

- (1) Adding a purpose section;
- (2) Broadening the exemption to include all utility dogs and qualified utility dogs, not just resident utility dogs;
- (3) Specifying that to enter the State, a qualified utility dog would be subject to quarantine and would be released from quarantine when a rabies antibody test is adequately confirmed and the Department of Agriculture (DOA) has determined that the dog is safe to be released into the community, provided that the dog shall not be subject to any length of stay beyond what is considered to be necessary in determining the validity of the test results;
- (4) Also enabling the Governor, by executive order, to instruct the DOA to allow a utility dog to enter the State, subject to a 30-day quarantine and other specified requirements;
- (5) Stipulating that qualified utility dogs and their handicapped handlers may depart from and return to the State for travel to and from the continental United States and Alaska only when medical treatment is unavailable in the State;
- (6) Amending the microchip, vaccine, and antibody titer test requirements of qualified utility dogs of handicapped handlers;
- (7) Deleting the requirement that handicapped handlers of qualified utility dogs obtain affidavits documenting the nature of the handler's handicap and attesting that both handler and dog have successfully completed a training course for utility dog teams;
- (8) Authorizing the DOA with the authority to quarantine any qualified utility dog or utility dog that upon inspection, displays signs and symptoms suggestive of rabies;
- (9) Including a definition for "qualified utility dog" and deleting the definition of "resident";
- (10) Deleting the penalties' section as unnecessary as both the civil and criminal penalties provisions are provided for by law in section 142-12, Hawaii Revised Statutes;
- (11) Providing a repeal date of one year from the bill's effective date or upon adoption of the DOA's new quarantine rules, whichever is sooner.
- (12) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3332, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3332, S.D. 2, C.D. 1.

Senators Ikeda, Kanno, Baker, Solomon, Tanaka, Liu.
Managers on the part of the Senate.

Representatives Morihara, Tom, Say.
Managers on the part of the House.

Representatives Swain and Halford did not sign the report.

Conf. Com. Rep. No. 129 on H.B. No. 4008

The purpose of this bill is to extend the term of class E agricultural operating loans from three years to a term not to exceed seven years.

Your Committee has amended this bill by:

- (1) Decreasing from seventy-five percent to a majority the number of directors and shareholders of farmers' cooperative associations or corporations seeking class E agricultural operating loans who are required to meet loan eligibility requirements and devote most of their time to farming operations;
- (2) Allowing the Department of Agriculture (DOA) to accept a junior mortgage as security for an agricultural loan, and deleting the provision that the junior mortgage be contingent on no prior mortgage provisions that might jeopardize the security position of the DOA or the borrower's ability to repay;
- (3) Changing the name of the Agriculture Loan Revolving Fund to the "Agricultural Loan Revolving Fund"; and
- (4) Allowing the DOA to continue to transfer moneys between the Agricultural Loan Revolving Fund and the Aquaculture Loan Revolving Fund after June 16, 1995.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 4008, 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. 4008, H.D. 1, S.D. 1, C.D. 1.

Senators Ikeda, Kanno, Solomon, Liu.
Managers on the part of the Senate.

Senator Fernandes Salling did not sign the report.

Representatives Morihara, Say, Jones, Halford.
Managers on the part of the House.

Conf. Com. Rep. No. 130 on H.B. No. 44

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 the appropriate amounts provided by the Department of Budget and Finance;
- (2) Deleting provisions which require the Governor to submit monthly reports to the Legislature on the use of bond proceeds;
- (3) Changing the effective date from July 1, 1996, to upon approval; 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. 44, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 44, S.D. 1, C.D. 1.

Senators Ikeda, Baker, Bunda, Fernandes Salling, Fukunaga, Kanno, Kawamoto, Solomon, Tanaka, Taniguchi, Liu.
Managers on the part of the Senate.

Representatives Say, Isbell, Ito, Kanoho, Kawakami, Marumoto.
Managers on the part of the House.

Conf. Com. Rep. No. 131 on H.B. No. 3138

The purpose of this bill is to improve and enhance the public education system by:

- (1) Exempting public schools from the Hawaii Public Procurement Code (Chapter 103D, Hawaii Revised Statutes) for procurements of less than \$5,000;
- (2) Establishing a zero tolerance policy for the possession of drugs, alcohol, or dangerous instruments;
- (3) Clarifying that profits derived from student-run enterprises be treated similarly to profits derived from student's agricultural and industrial pursuits;
- (4) Promoting charitable contributions of educational technology equipment and services;
- (5) Requiring that \$90,000,000 in general obligation bond funds be deposited into the State Educational Facilities Improvement Special Fund (Special Fund);
- (6) Requiring that of the \$90,000,000 in general obligation bond funds deposited into the Special Fund, no less than \$5,000,000 be expended for the development of technology infrastructure;
- (7) Authorizing the transfer of funds between the school-based budgeting program and the school-level personnel program;
- (8) Authorizing the Adult Community Education Programs to accept high school students as an alternative to traditional high school; and
- (9) Requiring the Department of Accounting and General Services (DAGS) to assist the Department of Education (DOE) in building classrooms for specified schools.

Upon careful consideration, your Committee on Conference has amended this measure by:

- (1) Deleting the exemption for public schools from the Hawaii Public Procurement Code;
- (2) Deleting the establishment of the zero tolerance policy for the possession of drugs, alcohol, or other dangerous instruments;
- (3) Clarifying that any public education institution accepting a charitable contribution of educational technology equipment and services must certify in a written receipt the value of the contribution;
- (4) Deleting the requirement that \$90,000,000 in general obligation bond funds be deposited into the Special Fund;

- (6) Deleting the requirement that of the \$90,000,000 in general obligation bond funds deposited into the Special Fund, no less than \$5,000,000 be expended for the development of technology infrastructure;
- (7) Deleting the authorization to transfer funds between the school-based budgeting program and the school-level personnel program;
- (8) Deleting the requirement that DAGS assist the DOE in building classrooms for specified schools;
- (9) Providing for the development of a plan for alternative education by the principals and teachers, or counselors at the school in which the students are presently enrolled;
- (10) Deleting the requirement that the Department transfer \$3,000 per student on an annual basis from the respective high school to the respective community school for adults; and
- (11) Making technical, nonsubstantive amendments for purposes of clarity and consistency.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3138, 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. 3138, H.D. 1, S.D. 2, C.D. 1.

Senators Ikeda, Chumbley, Baker, Fukunaga, Kawamoto.
Managers on the part of the Senate.

Senator Liu did not sign the report.

Representatives Stegmaier, Tom, Say, Santiago, Halford.
Managers on the part of the House.

Conf. Com. Rep. No. 132 on H.B. No. 1716

The purpose of this bill is to:

- (1) Require certain special and revolving funds of the University of Hawaii (UH) to be responsible for their pro rata share of administrative expenses;
- (2) Authorize the Director of Finance to deduct a percentage of fund receipts to defray the estimated central service expenses;
- (3) Modify factors used by the Legislature to formulate the University general fund budget appropriations;
- (4) Reestablish the Hawaii Opportunity Program in Education Fund at UH;
- (5) Require an assessment against each special and revolving fund to be transferred to the Tuition and Fees Special Fund;
- (6) Prohibit the University's Oahu campuses from starting classes earlier than 9:30 a.m.;
- (7) Authorize a land exchange to enable development of a University of Hawaii West Oahu campus in Kapolei; and
- (8) Establish a University of Hawaii-West Oahu Special Fund to help build the campus.

Your Committee has amended this bill by deleting all of its contents except for:

- (1) The authorization for the land exchange for the development of a University of Hawaii West Oahu campus in Kapolei; and
- (2) The establishment of the University of Hawaii-West Oahu Special Fund.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1716, 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. 1716, H.D. 1, S.D. 1, C.D. 1.

Senators Ikeda, Ige, Iwase, Taniguchi.
Managers on the part of the Senate.

Senator Taniguchi did not concur.
Senator Liu did not sign the report.

Representatives Say, Lee, Takamine, Ito, Takai, Tarnas, Halford.
Managers on the part of the House.

Conf. Com. Rep. No. 133 on H.B. No. 1736

The purpose of this bill is to appropriate funds to expand the Parent-Community Networking Centers (PCNC) to an additional fifty-one schools in fiscal year 1995-1996, and an additional thirty-four schools in fiscal year 1996-1997.

Upon careful consideration, your Committee on Conference has amended this measure by:

- (1) Statutorily establishing the PCNC program within the Department of Education;
- (2) Deleting the appropriation section to expand the PCNC program; and
- (3) Identifying the goals and objectives of the PCNC program.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1736, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1736, S.D. 1, C.D. 1.

Senators Ikeda, Chumbley, Kawamoto.
Managers on the part of the Senate.

Senator Liu did not sign the report.

Representatives Stegmaier, Say, Santiago, Anderson.
Managers on the part of the House.

Representative Chang did not sign the report.

Conf. Com. Rep. No. 134 on H.B. No. 3773

The purpose of this bill is to:

- (1) Extend the date of the appropriation for the Hawaiian Sovereignty Elections Council to include fiscal year 1996-1997;
- (2) Change the "plebiscite" to "Native Hawaiian vote";
- (3) Include an additional ballot question;
- (4) Repeal all references to a convention; and
- (5) Sunset the council upon completion of the Native Hawaiian vote.

Your Committee finds that Act 359, Session Laws of Hawaii, 1993, established legislative intent that the indigenous people of Hawaii be provided state support for the efforts by the Native Hawaiians to determine self-governance.

Through the activities of the council and after consultation with the Hawaiian people, the council formulated the following ballot question: "Shall the Hawaiian people elect delegates to propose a Native Hawaiian government?"

Your Committee is mindful that there are divergent points of view on the issue of self-governance. Your Committee:

- (1) Encourages the council to be inclusive of these views, and to continue its efforts to build consensus among the Hawaiian people;
- (2) Believes that this Act applies only to Native Hawaiians, and not the general public; and
- (3) Agrees that the council should be exempt from Chapter 91, Hawaii Revised Statutes, because a review by the state executive branch would not be appropriate and would likely not be completed before the council proceeds with any special election.

Your Committee is also aware that in this effort of the Native Hawaiian people to determine their own self-governance, the State should distance itself as far as possible from interfering or dictating what the process or outcome should be. To that end, specifically defining exactly what ballot questions should be asked and subjecting the council to statutory requirements of voter eligibility should be removed from the law. Instead, your Committee feels that it is within its purview to simply require that these issues be addressed by the council.

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

- (1) Amending the purpose and findings clause to clarify that one of the purposes of the council is to build consensus among the Hawaiian people;
- (2) Removing the provision which would have defined by law what questions would have been asked on the ballot of the Native Hawaiian Vote;
- (3) Deleting from Act 359, Hawaii Session Laws, 1993, the definitions of "qualified voter" and "special elections";
- (4) Restoring the provisions requiring the council to carry out the responsibilities necessary for:
 - (A) Conducting the elections and convening of delegates;
 - (B) Providing an apportionment plan;
 - (C) Establishing the eligibility of convention delegates; and

- (D) Conducting voter education and registration;
- (5) Requiring the council to provide election guidelines and procedures for the Native Hawaiian Vote, without regard to Chapter 91, Hawaii Revised Statutes;
 - (6) Requiring the council to submit a final report of its findings to the Legislature prior to the convening of the Regular Session of 1997;
 - (7) Sunsetting the council on December 31, 1996;
 - (8) Retaining the provision which provides that the results of any convention or ratification vote shall not supersede the state's constitution, charters, statutes, laws, rules, regulations, or ordinances;
 - (9) Changing the effective date to June 29, 1996, to allow the rolling over of funds before lapsing;
 - (10) Replacing the terms "Hawaiians", "native Hawaiians", and "indigenous Hawaiians" with "Native Hawaiian people" for the purpose of consistency; and
 - (11) Making technical, nonsubstantive changes for style and clarity.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3773, 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. 3773, H.D. 1, S.D. 1, C.D. 1.

Senators Ikeda, Baker, Kawamoto, Solomon, Liu.
Managers on the part of the Senate.

Representatives Arakaki, Say, Tom, Yamane, Kawanakoa.
Managers on the part of the House.

Conf. Com. Rep. No. 135 on H.B. No. 3399

The purpose of the bill is to enable the Business Registration Division (Division) of the Department of Commerce and Consumer Affairs to improve the efficiency of its operations and the delivery of its services to the investing public and the business community. More specifically, the bill:

- (1) Establishes increased fee amounts for the Division; and
- (2) Clarifies the requirements for qualifying as an exempt security under section 485-4(13), Hawaii Revised Statutes (HRS).

The Division is a self-sufficient unit that supports its activities with user fees. There has been no increase in these amounts in the last ten years, and the Division's fees are substantially less than the average filing fees being charged in other states.

In order to adequately serve the public and business community, the Division requires additional revenue to fund the modernization and upgrading of its computer system and software, the replacement of its telephone system, the development of community education programs, and to hire additional staff for its compliance and enforcement units, hearings office, and neighbor island operations. Authorizing the Division to increase its fees will enable it to raise the revenue necessary to support its activities.

Upon careful consideration, your Committee on Conference has amended the bill by:

- (1) Decreasing the initial filing fee and renewal fee for open-end management companies and unit investment trusts;
- (2) Amending section 485-4(15), HRS, to clarify that a security issued by an issuer registered as an open-end management company or unit investment trust under the Investment Company Act of 1940, (15 USC §80a), is not exempt from the requirements of sections 485-8 and 485-25(a)(7), HRS; and
- (3) Making technical, nonsubstantive amendments for purposes of style, clarity, and consistency.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3399, 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. 3399, H.D. 2, S.D. 1, C.D. 1.

Senators Ikeda, Holt, Iwase, Anderson.
Managers on the part of the Senate.

Representatives Menor, Say, Hiraki, Kanoho, Marumoto.
Managers on the part of the House.

Conf. Com. Rep. No. 136 on H.B. No. 3154

The purpose of this bill is to enhance citizen participation in the legislative process by:

- (1) Providing continued legislative support and funding for the Legislative Public Access Program, which includes the Public Access Room, the Legislative Broadcast Project, and the Legislative Internet Project;
- (2) Transferring the functional duties of the Public Access Room to the Legislative Reference Bureau (LRB); and
- (3) Establishing the Joint Legislative Access Committee.

Your Committee has amended this bill by:

- (1) Inserting the appropriated amounts in sections 6, 7, and 9;
- (2) Changing the expending agency from LRB to the Legislature to expend funds for:
 - (a) Production and distribution of television broadcasts of legislative proceedings during 1996-1997; and
 - (b) Equipment and operations of the Legislative Internet Project;
- (3) Extending the \$20,000 appropriation for electronic hardware and equipment another fiscal year, and changing the expending agency from the Legislative Reference Bureau to the Legislature;
- (4) Changing the effective date to June 28, 1996; and
- (5) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3154, 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. 3154, H.D. 2, S.D. 2, C.D. 1.

Senators Ikeda, Fukunaga, Baker, Ihara, Tanaka.
Managers on the part of the Senate.

Senator Liu did not sign the report.

Representatives Kanoho, Say, P. Oshiro, Marumoto.
Managers on the part of the House.

Conf. Com. Rep. No. 137 on H.B. No. 3362

The purpose of this bill is to change the district boundaries on the island of Oahu for judicial purposes as opposed to election and other purposes by:

- (1) Specifying, for judicial purposes only, the seven districts of Oahu;
- (2) Specifying for all purposes, except for judicial, the seven districts of Oahu with variations in the divisions marked (B), (D), (E), and (G); and
- (3) Clarifying that the establishment of election districts is to be exclusively governed by article IV of the state constitution and chapter 25, Hawaii Revised Statutes, which pertains to reapportionment.

Your Committee on Conference has amended this bill by 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. 3362, 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. 3362, H.D. 2, S.D. 1, C.D. 1.

Senators Ikeda, Grauly, Kawamoto, Solomon, Liu.
Managers on the part of the Senate.

Representatives Tom, Say, Abinsay, Hamakawa, Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 138 on H.B. No. 3964

The purpose of this bill is to streamline the operations of state government by:

- (1) Authorizing notice of invitations for bids through electronic media;
- (2) Renaming the Office of State Planning to the Office of Planning and transferring its functions, duties, and employees to the Department of Commerce and Consumer Affairs for administrative purposes;
- (3) Repealing the requirement that the Housing Finance and Development Corporation (HFDC) use funds from the Rental Assistance Revolving Fund to provide interim construction financing for the development of affordable rental housing; and

- (4) Prohibiting the HFDC from entering into new rental assistance contracts or subsidies for tenants of affordable rental housing.

Your Committee has amended this bill by including provisions to:

- (1) Authorize public accountants to accept remittances by electronic funds transfer;
- (2) Authorize filing to tax documents by electronic, telephonic, or optical means;
- (3) Provide for assessments and service charges for electronic funds transfers to the State;
- (4) Establish penalties for failure to remit taxes after electing to remit them by electronic fund transfer;
- (5) Require a report from the Department of Taxation containing statistics about penalties relating to electronic fund transfers.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3964, 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. 3964, H.D. 1, S.D. 2, C.D. 1.

Senators Ikeda, Fukunaga, Ihara, Kawamoto, Taniguchi, Liu.
Managers on the part of the Senate.

Representatives Say, Jones, Nakasone, Ward.
Managers on the part of the House.

Representative Yonamine did not sign the report.

Conf. Com. Rep. No. 139 on H.B. No. 3153

The purpose of this bill is to:

- (1) Comply with the provisions of the federal Voting Rights Language Assistance Act of 1992 to protect the voting rights of minority groups with limited proficiency in written English;
- (2) Specify the Legislative Reference Bureau as the office responsible for the interpretation of bills proposing constitutional amendments into plain language for the electorate;
- (3) Requiring the chief election officer or clerk to use the most currently compiled general county register to determine the eligibility of registered voters to sign for the candidate;
- (4) Authorizing the chief election officer or clerk to reject a nomination paper for lack of sufficient eligible signers; and
- (5) Providing a procedure for withdrawing a voter's signature from a candidate's nomination paper no later than 4:30 p.m. on the fourth business day prior to the close of filing and for notifying the candidate thereof within twenty-four hours of receipt of a notice to withdraw.

Your Committee on Conference has amended this bill by substituting the amount of \$65,000 in the appropriation section for the fiscal year 1996-1997.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3153, 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. 3153, H.D. 2, S.D. 2, C.D. 1.

Senators Ikeda, Grauly, Baker, Solomon, Liu.
Managers on the part of the Senate.

Representatives Tom, Say, Nekoba, White, Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 140 on H.B. No. 3970

The purpose of this bill is to require the purchaser of property, which is subject to the buy-back restrictions of section 201E-221, Hawaii Revised Statutes (HRS), to sell the property to a "qualified resident," as defined in section 201E-2, HRS, if the Housing Finance and Development Corporation (HFDC) does not exercise its option to buy-back the property under section 201E-221(a), HRS.

Your Committee on Conference has amended this bill by:

- (1) Authorizing HFDC to issue \$125,000,000 in revenue bonds for the development of infrastructure; and
- (2) 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. 3970, 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. 3970, H.D. 1, S.D. 1, C.D. 1.

Senators Bunda, Ikeda, Chumbley, Holt, Taniguchi, Liu.
Managers on the part of the Senate.

Representatives Arakaki, Say, Hamakawa, Jones, Nakasone, Saiki, Kawanakoa.
Managers on the part of the House.

Conf. Com. Rep. No. 141 on H.B. No. 3382

The purpose of this bill is to improve the financial stability of the State by:

- (1) Requiring state and county agencies to pay interest on overdue bills at a rate equivalent to the prime rate plus an unspecified rate, up to a maximum of twelve percent per year, rather than at the existing rate of twelve percent per year;
- (2) Establishing six special funds for the deposit of interest from certain revolving funds;
- (3) Repealing the authority of the executive departments to transfer excess moneys from special funds to the general fund; and
- (4) Transferring certain amounts from certain revolving funds and certain other funds to the general fund.

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

- (1) Establishing six special funds; and
- (2) Transferring amounts from certain funds to the general fund.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3382, 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. 3382, H.D. 1, S.D. 1, C.D. 1.

Senators Ikeda, Baker, Bunda, Fernandes Salling.
Managers on the part of the Senate.

Representatives Say, Kanoho, Kawakami, Nakasone.
Managers on the part of the House.

Conf. Com. Rep. No. 142 on H.C.R. No. 159

The purposes of this concurrent resolution are to:

- (1) Approve the compensation plans (and the costs thereof) submitted by the personnel directors of the State, the Judiciary, and the counties pursuant to sections 77-4 and 77-5, Hawaii Revised Statutes; and
- (2) Approve the Public Employees Compensation Appeals Board's January 3, 1996 report of findings on adjustments to the compensation plans submitted by the foregoing personnel directors.

Your Committee on Conference amended this concurrent resolution by making technical, non-substantive changes to correct an error.

It is the intent of your Committee on Conference to approve the compensation plans, and the costs thereof, as well as the report of the Public Employees Compensation Appeals Board.

Your Committee on Conference is in accord with the intent and purpose of H.C.R. No. 159, S.D. 2, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 159, S.D. 2, C.D. 1.

Senators Kanno, Ikeda, Baker.
Managers on the part of the Senate.

Representatives Yonamine, Say, Marumoto.
Managers on the part of the House.

Conf. Com. Rep. No. 143 on S.B. No. 2304

The purpose of this bill is to make various amendments to the general assistance law.

Your Committee has amended this bill by:

- (1) Deleting substance abusers from eligibility;
- (2) Limiting all persons, disabled or not, between ages eighteen and sixty-five to receiving general assistance for a period of twenty-four months;

- (3) Requiring a person with a physical or mental disability to accept and pursue appropriate medical treatment from a provider of the person's choice, as a condition of receiving general assistance;
- (4) Deleting the authority of the Department of Human Services to extend the one year eligibility pending determination of eligibility of the Federal Supplemental Security Income Program;
- (5) Deleting from the definition of "children" those living in a home with their grandfather, grandmother, brother, sister, stepfather, stepmother, uncle, aunt, first cousin, nephew, and niece; and
- (6) Making the effective date retroactive to July 1, 1995.

Your Committee devoted much time and effort in consideration of how much time to allow for receiving general assistance. Your Committee notes that the average period of general assistance in Hawaii is thirteen months, which is very generous compared to most other states. Your Committee has agreed to limit assistance to a twenty-four month period. However, there are alternatives to general assistance in federal programs such as the Federal Supplemental Security Income Program, Aid to Families with Dependent Children, and Aid to the Aged, Blind, and Disabled, which in effect would enable recipients to continue to receive benefits under those federal programs after the two year period.

Your Committee is aware of the hardships this bill may pose to general assistance recipients, particularly those who are disabled or who are substance abusers, and of the possibility of future social ramifications which this bill might precipitate. However, the dismal financial plight of the State makes this necessary at this time. There is simply not enough funds to go around. This bill is unpopular but necessary. It is also part of a larger issue of state finances and the need for revenue enhancements such as developing new industries in the State.

Both the House and Senate Conferees have labored long and hard to search for money to avoid curtailing general assistance. This Conference Draft represents the very best effort of both houses to provide the optimum level of assistance under current fiscal conditions. All state departments and programs have been sacrificed to some extent this year to balance competing demands for limited resources. Your Committee has tried indefatigably to avoid cutting human services as much as possible.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2304, 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. 2304, S.D. 1, H.D. 2, C.D. 1.

Senators Ikeda, Matsuura, Baker, Kawamoto, Tanaka.
Managers on the part of the Senate.

Representatives Chun Oakland, Tom, Say, Arakaki, Ward.
Managers on the part of the House.

Conf. Com. Rep. No. 144 on S.B. No. 2388

The purpose of this bill is to provide for a single entry point system for elderly and disabled persons to obtain access to, and obtain a full range of appropriate services from, the long-term care system in Hawaii.

Your Committee on Conference has amended this bill. As amended, this bill provides as follows:

- (1) Requires the Department of Human Services (DHS) to design and develop a single entry point system for long-term care, including creating a temporary ad hoc coordinating committee to design and develop the system and convening an advisory committee for policy purposes;
- (2) Specifies guidelines (from Senate's version) for the coordinating committee to follow;
- (3) Requires the coordinating committee to engage in actual, good faith negotiations among the various agencies to be involved with the committee's work;
- (4) Clarifies that expenses of the work of both committees shall be borne by existing budgeted funds of the DHS and that no new appropriations are necessary; and
- (5) Requires both the committee and the department to report on their work to the Governor and the Legislature by December 20, 1996.

Your Committee wishes to express the urgency with which it views the establishment of a single point entry system. The delivery of long-term care to the growing population of elderly and disabled persons in this State is currently fragmented and uncoordinated. Your Committee finds that a single point entry system is conducive to better coordination of services and to better access to the long-term care system. A coordinated single entry point could provide a one-stop shop for all eligible persons who would no longer need to individually search among all available agencies for needed services.

Your Committee suggests to the DHS that it include the following agencies in the temporary, ad hoc coordinating committee: the Departments of Human Services, Health, Labor and Industrial Relations, Education, Commerce and Consumer Affairs, Budget and Finance, and Transportation; the Executive Office on Aging; the University of Hawaii; county agencies providing relevant care to the elderly and disabled; acute care hospitals, long-term care institutions, adult day health centers, adult day care centers, and adult residential care homes; other relevant profit and nonprofit providers

of care; advocacy groups including consumers from the elderly and disabled populations; and the Hawaii Medical Association.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2388, 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. 2388, S.D. 2, H.D. 1, C.D. 1.

Senators Ikeda, Matsuura, Levin, Kawamoto, Liu.
Managers on the part of the Senate.

Representatives Chun Oakland, Pepper, Kawakami, Saiki, Anderson.
Managers on the part of the House.

Conf. Com. Rep. No. 145 on S.B. No. 2485

The purpose of this bill is to preserve certain employee rights, privileges, and benefits for furloughed state and county employees.

Your Committee on Conference has amended the bill by returning it to its original form.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2485, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2485, H.D. 2, C.D. 1.

Senators Ikeda, Kanno, Baker, Kawamoto, Solomon.
Managers on the part of the Senate.

Representatives Yonamine, Say, Nakasone, Suzuki, Marumoto.
Managers on the part of the House.

Conf. Com. Rep. No. 146 on S.B. No. 2662

The purpose of this bill is to add a new section to the developmental disabilities statute to: provide continued funding for community-based services for individuals with developmental disabilities who are leaving the Waimano training school and hospital; and require that any funds remaining in HTH 501 after serving the individual and deducting the cost of building and grounds maintenance, are to be used to supplement state matching funds for Title XIX medicaid community-based programs. The bill also amends Act 189, Session Laws of Hawaii 1995, by extending the sunrise provision of the Act from June 30, 1996, to no later than June 30, 1997.

Your Committee has amended this bill by:

- (1) Clarifying that the funds following the individual leaving Waimano are the "funds needed to allow that individual to receive necessary community-based services";
- (2) Specifying that to the extent funds are available, the amount of funds following the individual will be determined by the Director of Health to be the greater of the funds needed as of June 29, 1996, to serve the individual while in Waimano, the funds needed as of June 29, 1996, to serve an individual with similar disabilities in a facility in the State other than Waimano, or the funds needed as of June 29, 1996, to serve an individual with similar disabilities in a community setting in the State; and
- (3) Changing the new sunrise date for Act 189, Session Laws of Hawaii 1995, from "no later than June 30, 1997" to "on June 30, 1997".

It is not your Committee's intention to restrict or prohibit the Department of Health from providing case management services under Act 189 prior to June 30, 1997. If the Department is prepared to provide such services prior to June 30, 1997, your Committee encourages it to proceed expeditiously in providing the services.

It is your Committee's intent and understanding that the Title XIX state matching funds referred to in this bill shall include funds which are available for the purpose of establishing and maintaining a crisis center at Waimano to service persons with developmental disabilities in the community.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2662, 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. 2662, S.D. 1, H.D. 2, C.D. 1.

Senators Ikeda, Levin, Bunda, Tanaka, Liu.
Managers on the part of the Senate.

Representatives Pepper, Say, Chun Oakland, Kawakami, Anderson.
Managers on the part of the House.

Conf. Com. Rep. No. 147 on S.B. No. 2781

The purpose of this bill is to provide immunity and benefits for persons who voluntarily respond and assist during an emergency medical disaster; require the Department of Health to work with the University of Hawaii, another higher learning institution, or professional organization to provide life support training; require the Department to establish and maintain qualification standards for emergency services course instructors; transfer the responsibility of providing life

support training from the Department to the University; authorize the Department to inspect training facilities and establish qualifications for instructors; and grandfather current temporary faculty and employees of the life support training programs into permanent faculty and civil service positions, without loss of salary, seniority, prior service credits, sick leave, or other employee benefits or privileges and without the necessity of application.

Your Committee on Conference amended this bill by deleting section one, which provided immunity and benefits for persons who voluntarily respond and assist during emergency medical disaster.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2781, S.D. 2, H.D. 3, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2781, S.D. 2, H.D. 3, C.D. 1.

Senators Ikeda, Ige, Levin, Iwase, Liu.
Managers on the part of the Senate.

Representatives Pepper, Lee, Kawakami, Shon, Anderson.
Managers on the part of the House.

Conf. Com. Rep. No. 148 on S.B. No. 2819

The purpose of this bill, as received by your Committee on Conference, is to transfer excess fund balances from various special funds to the general fund.

Upon further consideration, your Committee on Conference has amended this measure by:

- (1) Adjusting the interest to be paid by state agencies to persons holding receivables for goods or services to a rate equal to the prime rate for each calendar quarter plus two percent but not to exceed twelve per cent a year;
- (2) Inserting a definition of "prime rate" to mean the prime rate as posted in the Wall Street Journal on the first business day of the month preceding the calendar quarter;
- (3) Increasing the amount to be transferred from the rental assistance revolving fund to \$13,500,000;
- (4) Transferring \$225,000 from the state motor pool revolving fund to the general fund;
- (5) Transferring \$50,000 from the Hawaii small fishing vessel purchase, construction, renovation, maintenance, and repair loan revolving fund to the general fund;
- (6) Transferring \$150,000 from the Hawaii large fishing vessel purchase, construction, renovation, maintenance, and repair loan revolving fund to the general fund;
- (7) Transferring \$150,000 from the Hawaii innovation, development revolving fund to the general fund;
- (8) Decreasing the amount to transferred from the state highway fund to \$19,000,000;
- (9) Transferring \$2,516,700 from the state educational facilities improvement special fund to the general fund; and
- (10) Making nonsubstantive, technical changes for the purposes of clarity and style.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2819, 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. 2819, S.D. 2, H.D. 1, C.D. 1.

Senators Ikeda, Bunda, Kawamoto.
Managers on the part of the Senate.

Senators Holt and Liu did not sign the report.

Representatives Say, Isbell, Ito, Kanoho, Kawakami, Marumoto.
Managers on the part of the House.

Conf. Com. Rep. No. 149 on S.B. No. 2821

The purpose of this bill is to establish a timetable according to which unclaimed property held by the State escheats to the State.

Specifically, this bill bases the timetable upon the value of the property. The more valuable the state-held property, the later the date of escheat.

Additionally, this bill requires the Director of Finance to give public notice of escheat at least three months prior to the date of escheat, and at least once in a newspaper of general circulation in the State. This bill also extends from ninety days to one hundred twenty days the period in which the Director of Finance must render a decision on a claim against unclaimed property.

This bill also modifies the requirements of public notice of abandoned property by allowing for just one publication in a newspaper of general circulation in the State. The present law requires publication at least once a week for two

consecutive weeks in a newspaper of general circulation in the county that contains the last known address of the owner of the abandoned property. This change in public notice requirements applies to both property held by the State and property held by the federal government.

Your Committee has amended this measure by specifying that the escheat process created in this measure does not apply to travelers checks, money orders, and instruments issued by banks such as checks and drafts.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2821, 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. 2821, S.D. 2, H.D. 2, C.D. 1.

Senators Ikeda, Grauly, Baker, Fernandes Salling, Liu.
Managers on the part of the Senate.

Representatives Tom, Say, Ito, White, Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 150 on S.B. No. 2875

The purpose of this bill is to enable the Chief Election Officer and the County Clerk to require registered voters of precincts affected by a natural disaster to vote by absentee ballot.

Your Committee finds that this bill is necessary to ensure, in the event of a natural disaster, that the right of registered voters to vote is unimpaired.

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

- (1) Adding a new section 3 to make conforming amendments to section 11-92.3, Hawaii Revised Statutes, for consistency and to extend from seven to twenty-one days the period of time in which an election may be postponed in a precinct affected by a natural disaster;
- (2) Renumbering the remaining sections consecutively; and
- (3) Making a number of technical, nonsubstantive changes for purposes of style, clarity, and consistency.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2875, 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. 2875, S.D. 1, H.D. 2, C.D. 1.

Senators Ikeda, Grauly, Baker, Fernandes Salling, Solomon, Tanaka, Liu.
Managers on the part of the Senate.

Representatives Tom, Say, Case, Kanohe, Thielen.
Managers on the part of the House.

Conf. Com. Rep. No. 151 on S.B. No. 2856

The purpose of this bill is to abolish the Office of Children and Youth and transfer its programs and personnel to other government agencies.

Your Committee finds that this bill is consistent with the Legislature's ongoing effort to streamline government and ensure the best possible use of the State's limited resources. This bill also addresses the concern with regard to the constitutional provision which has been interpreted by the Attorney General to prohibit the placement of offices or agencies which are not temporary in nature under the Office of the Governor.

Your Committee has amended this bill by revising the number of personnel positions to be transferred to other agencies as a result of the abolition of the Office of Children and Youth. Section 9 of this bill has been amended to provide that three positions shall be transferred to programs funded by budget area HMS 302; four positions shall be transferred to programs funded by budget area HMS 501; and two positions shall remain in the Office of the Governor.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2856, 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. 2856, S.D. 1, H.D. 2, C.D. 1.

Senators Ikeda, Matsuura, Solomon, Taniguchi, Liu.
Managers on the part of the Senate.

Representatives Chun Oakland, Say, Kahikina, Kawakami, Kawanakoa.
Managers on the part of the House.

Conf. Com. Rep. No. 152 on S.B. No. 2891

The purpose of this bill is to implement programs needed to address the problem of prison and jail overcrowding by appropriating funds for programs authorized by Act 25, Special Session Laws of Hawaii 1995.

Specifically, this bill appropriates the sum of:

- (1) \$1 to the Judiciary for fiscal year 1996-1997 for staffing, equipment, and other current expenses for the implementation and operation of the integrated community sanctions program;
- (2) \$1 to the Department of Public Safety for fiscal year 1996-1997 for staffing, equipment, and other current expenses for the implementation and operation of pretrial drug treatment services;
- (3) \$191,000 to the Department of Public Safety for fiscal year 1996-1997 for personnel costs, other current expenses, and equipment for the assessment center of the sex offender treatment program;
- (4) \$16,000 to the Department of Public Safety for fiscal year 1996-1997 for the purchase of services for medically disabled inmates in the sex offender treatment program;
- (5) \$1 to the Department of Public Safety for fiscal year 1996-1997 for staffing, equipment, and other current expenses for the purchase of residential work-furlough services;
- (6) \$1 to the Department of Public Safety for fiscal year 1996-1997 for staffing, equipment, and other current expenses for the expansion of parole services;
- (7) \$1 to the Department of Public Safety for fiscal year 1996-1997 for staffing, equipment, and other current expenses for the implementation and operation of sex offender and substance abuse services for parolees; and
- (8) \$74,137 to the Department of Public Safety for fiscal year 1996-1997 for personnel costs, other current expenses, and equipment for two additional parole officers to adequately meet the current caseload.

Because of the State's current fiscal crisis, your Committee was able to fund only the assessment center of the sex offender treatment program, the purchase of services for medically disabled inmates, and the two additional parole officer positions.

Consequently, your Committee has amended this bill by deleting those provisions:

- (1) Appropriating funds to the Judiciary for the implementation and operation of the integrated community sanctions program; and
- (2) Appropriating funds to the Department of Public Safety for:
 - (A) The implementation and operation of pretrial drug treatment services;
 - (B) The purchase of residential work-furlough services;
 - (C) The expansion of parole services; and
 - (D) The implementation and operation of sex offender and substance abuse services for parolees.

Your Committee has also amended this bill by 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. 2891, 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. 2891, S.D. 2, H.D. 2, C.D. 1.

Senators Ikeda, Solomon, Taniguchi,
Managers on the part of the Senate.

Senators Grauly and Liu did not sign the report.

Representatives McMurdo, Tom, Say, Case,
Managers on the part of the House.

Representative Meyer did not sign the report.

Conf. Com. Rep. No. 153 on S.B. No. 2941

The purpose of this bill is to establish a Commercial Fisheries Special Fund within the Department of Land and Natural Resources to provide the funding necessary for programs and activities relating to the management, conservation, and monitoring of aquatic life.

The bill also appropriates \$100,000 from the special fund to cover operation expenses in fiscal year 1996-1997.

Your Committee finds that although the Department of Land and Natural Resources regulates all commercial fishing activities in the State, all moneys generated by the Department through the issuance of fishing permits and the assessment of fines and other charges are deposited into the general fund. A special fund for the collection and deposit of these proceeds will enable the Department to utilize these earnings for commercial fisheries purposes. The moneys in the fund will be used for the conservation, improvement, monitoring, and management of commercial fisheries.

Upon further consideration, your Committee has amended this bill by clarifying that any unencumbered funds remaining in the Commercial Fisheries Special Fund as of June 30, 2001, shall lapse into the State General Fund upon the repeal of the special fund's existence.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2941, 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. 2941, S.D. 2, H.D. 2, C.D. 1.

Senators Ikeda, Kanno, Baker, Solomon, Anderson.
Managers on the part of the Senate.

Representatives Santiago, Kawakami, M. Oshiro, Tarnas, Anderson.
Managers on the part of the House.

Conf. Com. Rep. No. 154 on S.B. No. 3042

The purpose of this bill is to create a three-year pilot project for child protective and diversion services within the Department of Human Services.

In particular, the pilot project is to have the following features: the establishment of two "neighborhood places" for service delivery by public and private child welfare agencies; the use of mechanisms for pooling public and private resources for the neighborhood places, which would allocate the resources allotted to them; and an evaluation component comparing the pilot's outcomes and processes with the existing system.

In addition, the project is required to work with a tax exempt organization to serve as the conduit through which private sector contributions may be expended for the project. The bill further specifies that the Department of Human Services is to consult with other specified agencies and private groups with respect to such topics as sites for neighborhood places, budget and fund expenditure, specific outcomes, and hiring a project coordinator. Finally, the bill requires the Department of Human Services to submit semiannual progress reports regarding the pilot project to the Legislature, which are to be made available to community groups.

Your Committee agrees with the intent of this bill, and finds that there is an immediate need to improve the system of child protective services and constructively address the growing rate of child abuse and neglect in Hawaii. Your Committee also highly commends the work of the Child Welfare Reform Services Task Force, which was formed pursuant to Senate Concurrent Resolution No. 89, H.D. 1 (1994) to develop a blueprint for reform in child protective services.

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

- (1) Adding a new purpose section;
- (2) Specifying that the pilot project is to be conducted as a public-private partnership to maintain an effective level of child protective services;
- (3) Specifying that the project is responsible for the development of training of public and private sector workers in child protective and diversion services;
- (4) Deleting the use of mechanisms for pooling public and private resources for the neighborhood places as a component of the project, and adding a statewide central intake service available by telephone and systems-change training for public and private sector child protective and diversion service workers;
- (5) Allowing the Department of Human Services, Department of Education, Department of Health, Office of Youth Services, and the Judiciary to transfer resources to the project through a memorandum of agreement or other appropriate action;
- (6) Allowing, rather than requiring the project to work with tax exempt organizations to implement the project;
- (7) Creating a child protective services reform coordinating committee within the Department of Human Services for administrative purposes, to provide assistance to the project as requested by the Director of Human Services and make recommendations to the participating public agencies regarding the project's implementation, including development of requests for proposals, site selection for the neighborhood places, and identification of project goals;
- (8) Specifying the membership of the child protective services reform coordinating committee to be appointed by the Governor;
- (9) Exempting the committee from the public notice and public hearing requirements of the Administrative Procedure Act in the adoption of administrative rules;
- (10) Allowing the Director of Human Services to appoint a project coordinator and additional staff as necessary; and
- (11) Requiring the child protective services reform coordinating committee, rather than the Department of Human Services, to submit progress reports to the Legislature.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 3042, 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. 3042, S.D. 2, H.D. 2, C.D. 1.

Senators Ikeda, Grauly, Solomon, Taniguchi, Liu.
Managers on the part of the Senate.

Representatives Chun Oakland, Kawakami, Arakaki, Isbell, Kawananaoka.
Managers on the part of the House.

Conf. Com. Rep. No. 155 on S.B. No. 3240

The purpose of this bill, as received by your Committee on Conference, is to improve the effectiveness of the current enterprise zone law by clarifying the eligibility requirements for "qualified businesses".

Your Committee on Conference has amended this measure by:

- (1) Deleting the eligibility requirement added to Section 209E-9 (a)(1) and (b)(1), Hawaii Revised Statutes, that a business already employ at least one full-time employee;
- (2) Changing from "seventy thousand or less" to "one-hundred thousand or less" the county population threshold applicable to certain eligibility exemptions for agricultural producers;
- (3) Retaining the language of Section 209E-9(e), Hawaii Revised Statutes, dealing with the sale, transfer, and delivery of tangible personal property and services within an enterprise zone, which was deleted in House Draft No. 2;
- (4) Providing that the exemption for agricultural producers in counties with a population of one-hundred thousand or less shall be repealed on June 30, 1998; and
- (5) Making a technical, nonsubstantive amendment to conform to proper bill drafting style.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 3240, 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. 3240, S.D. 2, H.D. 2, C.D. 1.

Senators Ikeda, Matsunaga, Fernandes Salling, Solomon, Liu.
Managers on the part of the Senate.

Representatives Herkes, Kawakami, Kanohe, Swain, Marumoto.
Managers on the part of the House.

STANDING COMMITTEE REPORTS

SCRep. 1601 Consumer Protection on S.B. No. 2001

The purpose of this bill is to provide for a "pure no-fault" system of motor vehicle insurance compensation whereby losses occurring from motor vehicle accidents would be covered by mandatory first party insurance coverage rather than lawsuits.

Under the pure no-fault system as proposed, the tort system would be eliminated as a means of damage recovery except in those cases involving driving under the influence, intentional and/or criminal acts, and catastrophic economic losses in excess of the injured party's insurance coverage. Recovery for damages, therefore, would be limited only by the amount of insurance coverage selected and carried by the injured party instead of relying on the alleged tortfeasor's ability to pay for restitution. In order to ensure adequate protection for personal injury with the virtual elimination of a remedy in tort, the bill provides for a mandatory minimum coverage of \$250,000. Information received by your Committee indicates that this amount would be sufficient to cover ninety-nine per cent of all injuries arising from motor vehicle accidents. To maintain this percentage of protection over time, the bill contains provisions to require the insurance commissioner to review and update this requirement annually to adjust the dollar amount of the mandatory minimum coverage. Your Committee notes that the bill would also allow insurers to offer optional first party coverage in excess of the mandatory minimum for both personal injury and pain and suffering (non-economic losses) to the prospective purchaser.

With respect to the estimated one per cent of catastrophic motor vehicle accident related injuries in excess of \$250,000, the bill would allow recovery in tort for uncompensated economic losses. In addition, the bill also provides that any pedestrian, bicyclist, or other person not occupying a motor vehicle, who is injured or killed as a result of being struck by a motor vehicle, will also be entitled to the benefits of the increased mandatory minimum coverage.

Your Committee is sensitive to the constitutional issue that must be considered in substituting or restricting remedies in tort. Your Committee finds, however, that all of the laws that prohibit motor vehicle accident victims from recovering in tort have been upheld when the subject laws included appropriate provisions for "an adequate substitute for", or "a reasonable substitute to", recovery for damages in tort. While the grounds for these cases are varied, all of the courts have held that the legislature is constitutionally empowered to eliminate the traditional right of the injured party to seek damages for pain and suffering in tort against the alleged tortfeasor in those instances where serious injuries are not sustained, or where the injured party is guaranteed some recovery for economic losses from their insurers.

The elimination of tort liability and other artificial cost drivers as proposed in the bill, as amended, will result in significant and direct cost savings to consumers of automobile insurance by as much as forty per cent while providing one hundred per cent coverage for personal injury protection. The resulting savings on the current average annual automobile insurance premium of \$1,000, therefore, will be approximately \$400 per vehicle. Your Committee notes that these are real savings that the consumer will be able to redirect into the local economy.

Despite the public attention on the large cost reductions which this bill, as amended, will achieve, your Committee strongly believes that its real significance lies in its reformation of the ineffective and costly tort system as it relates to the compensation of injured parties of motor vehicle accidents. Under the pure no-fault system as proposed, compensation to the injured party will be much more swift, direct, and complete in ninety-nine per cent of all cases.

In addition to minor nonsubstantive technical amendments, your Committee has further amended the bill to incorporate input received in a public hearing. These amendments include:

- (1) Provisions to replace the current maximum of \$1,200 per month for wage loss protection with an amount based on average monthly earnings for the twelve-month period prior to the accident; and
- (2) Adding a definition for "economic loss" to clarify that the term means expenses incurred for treatment, services, products, expenses, accommodations, or earnings loss as provided in section 431:10C-103(10)(A), Hawaii Revised Statutes.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2001, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2001, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Aki).

SCRep. 1602 Planning, Land and Water Use Management on S.B. No. 2011

The purpose of this bill is to authorize the Commission on Water Resource Management (CWRM) to establish a technical advisory committee and to hire private counsel.

Specifically, the bill adds a new section to chapter 174C, Hawaii Revised Statutes, that authorizes the CWRM to establish a technical advisory committee that whose primary duty is to "assist the commission by providing research, data, and analysis in specific areas of technical expertise." The technical advisory committee is to be comprised of citizens who possess technical expertise in the fields of engineering, aquatic ecology, hydrology, and geology and who are appointed by the governor for terms of six years.

The bill also authorizes the CWRM to hire its own private counsel rather than relying on the Attorney General by adding the CWRM to the list of agencies contained in section 103D-209, Hawaii Revised Statutes, who are exempt from using the Attorney General as exclusive legal counsel.

Your Committee finds that in some instances, the Attorney General, from whom the CWRM now relies for legal counsel, may either be in a conflict-of-interest situation or without expertise in the area of water resource management. Authorizing the CWRM to hire private counsel will provide the CWRM with the flexibility to obtain legal counsel that is specifically qualified and devoted to its needs.

Additionally, your Committee finds that the field of water resource management is a very complex and emotionally charged subject. In such instances, decisions based on reliable data, in depth research, and thoughtful analysis must prevail. Such foresight will allow decision makers to be well informed and well suited to make sound decisions. Providing the CWRM with the authority to establish a technical advisory committee that provides research, data, and analysis will help the CWRM make better and more informed decisions on water resource management.

Your Committee wishes to note that the amendments made to section 103D-209(b), Hawaii Revised Statutes, contained in Section 2 of this bill were inadvertently made to a section of law that was amended by Act 178, Session Laws of Hawaii 1995. Your Committee is aware of the matter and will rely on the Committee on Ways and Means to take the remedial steps it deems appropriate.

As affirmed by the record of votes of the members of your Committee on Planning, Land and Water Use Management that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2011 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Ige).

SCRep. 1603 Planning, Land and Water Use Management on S.B. No. 2013

The purpose of this bill is to amend the State Water Code.

Initially, your Committee notes that it traveled across the State during the latter part of 1995 conducting public hearings on the Final Report of the Review Commission on the State Water Code (Final Report). Your Committee received over ten hours of testimony from a number of interested parties. Your Committee joins with those speakers who acknowledged the difficult task shouldered by the Review Commission on the State Water Code in developing and completing the Final Report. Your Committee wishes to thank the Review Commission for its diligence and the tremendous amount of time and effort the Commissioners put forth in creating the Final Report.

Several of the amendments contained in this bill are the result of the work of the Review Commission. For example, the Review Commission's proposal that traditional and customary practices be subject to reasonable conservation practices is repeated verbatim in section 5 of this bill. Also, the Review Commission's recommendation that the Commission on Water Resource Management (CWRM) be required to promulgate rules for validation of legitimate appurtenant rights claims has been incorporated into section 5 of this bill. Moreover, the Review Commission's focus on the membership of the CWRM prompted your Committee to likewise review the membership issue which resulted in your Committee's recommendation that the CWRM be a commission with membership coming wholly from the public. Accordingly, this bill removes, as the CWRM members, the Chairperson of the Board of Land and Natural Resources and the Director of Health. Your Committee believes that such an amendment would remove any potential conflict of interest issues which could arise if the Chairperson or the Director sat as members of the CWRM.

Your Committee notes that the present Water Code is structured to balance various interest competing for water use in a manner which is sensitive to the counties' land use prerogatives while addressing the State's general concern. Your Committee supports and affirms this concept. It is a concept which ensures that the State's scarce and precious water resources will be protected and will be used in a manner and for such purposes which will benefit all the people of Hawaii.

Your Committee has amended the bill by:

- (1) Eliminating the proposal to increase the CWRM's membership from six to nine;
- (2) Requiring that all members of the CWRM be appointed by the Governor and subject to confirmation by the Senate; and
- (3) Deleting the Chairperson of the Board of Land and Natural Resources and the Director of Health from the CWRM's membership.

Your Committee made this amendment based on the testimony submitted by the Chairperson of the Commission on Water Resource Management, who stated that six members was a "comfortable and appropriate number" for the purposes of the commission and that any increase in membership would bring with it financial implications. To address this concern, your Committee has reduced the number of Commissioners back to six, thereby eliminating any potential financial impact an increase in the CWRM membership may impose.

Your Committee was also made aware of concerns that the passage of this bill may affect certain pending contested cases that are before the CWRM. It is your Committee's understanding and intent that this bill not affect any pending contested case proceedings before the CWRM. It is also your Committee's understanding and intent that any amendment to section 174C-101, Hawaii Revised Statutes, relating to authorizing the CWRM to adopt rules and procedures to validate appurtenant rights claims, shall not affect any existing appurtenant rights claims.

As such, your Committee believes that the amended measure will bring about the necessary adjustments to the Water Code and its administration, resulting in the more efficient and equitable management of the State's precious water resources.

As affirmed by the record of votes of the members of your Committee on Planning, Land and Water Use Management that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2013, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2013, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Ige).

SCRep. 1604 Planning, Land and Water Use Management on S.B. No. 2009

The purpose of this bill is to require that any gift of land to the State be subject to legislative disapproval.

Specifically, the bill states that any gift of land to the State shall be subject to disapproval by the Legislature by two-thirds vote of either the Senate or the House of Representatives or by majority vote of both in any Regular or Special Session next following the date of the gift. The bill also requires the Board of Land and Natural Resources to annually submit a report on all gifts of land made to the State in the preceding year to the Legislature within thirty days of the convening of each Regular Session. The report is to contain a list of all gifts of land consummated by the Board of Land and Natural Resources wherein a deed for a gift of land has been executed by the parties together with the following information:

- (1) The location and area of the parcels of land to be given;
- (2) The value of the lands to be conveyed to the State by the party;
- (3) The name or names of the appraiser or appraisers;
- (4) The date of the appraisal, which shall not be more than six months prior to the date of final approval of the gift by the Board of Land and Natural Resources; and
- (5) Conditions, if any, that are attached to the gift.

Your Committee received testimony in support of the measure from the Department of Land and Natural Resources.

Your Committee believes that the Legislature, as the policy making body of the State, should be provided with the opportunity to ascertain whether or not any gift of land is in the best interest of the State.

As affirmed by the record of votes of the members of your Committee on Planning, Land and Water Use Management that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2009 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Ige).

SCRep. 1605 Planning, Land and Water Use Management on S.B. No. 2010

The purpose of this bill is to require the Board of Land and Natural Resources (Board) to annually submit to the Legislature, a report on the use of at least ten percent of all public lands in the State.

The bill requires the Board to evaluate at least ten percent of the total public land parcels in the State so that each parcel or area of public land shall be reported on at least once during a ten-year period. The report is to include:

- (1) An explanation as to why the particular use of each parcel is superior to other alternative uses, including disposal, in terms of the public interest; and
- (2) If a parcel of land is leased to a person in the private sector, an evaluation of the terms and conditions of the lease agreement.

The Legislature, by the adoption of a concurrent resolution, may also require the Board to include particular parcels or areas in the report.

Your Committee received testimony in support of the measure from the Department of Land and Natural Resources.

Your Committee asserts that the management of public lands is a matter under legislative purview and, as such, detailed information on the disposition of public lands is necessary in order for the Legislature to make informed decisions on land management issues.

As affirmed by the record of votes of the members of your Committee on Planning, Land and Water Use Management that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2010 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.

Ayes, 6. Noes, none. Excused, 1 (Ige).

SCRep. 1606 Planning, Land and Water Use Management on S.B. No. 2012

The purpose of this bill is to provide state and county governments with immunity from liability for injuries caused by a natural condition of any unimproved public land.

The bill specifies that unimproved public land includes any lake, stream, bay, river, or beach and that the negligent performance of rescue services are not immunized from liability.

Your Committee received testimony in support of the measure from the Attorney General, the Department of Hawaiian Home Lands, various representatives of the Counties of Honolulu, Maui, Hawaii, and Kauai, the Chamber of Commerce of Hawaii, and the Hawaiian Lifeguard Association.

According to testimony, liability lawsuits are being filed by plaintiffs against government for injuries resulting from conditions over which government has no control. These types of lawsuits have a negative impact on the provision for and maintenance of public beach and trail access for recreational purposes and beach use because of fear of potential liability. In addition, your Committee finds that as government is forced to defend such lawsuits, the responsibility for the related costs and expenses is ultimately being shouldered by the taxpayers.

As succinctly presented in the Attorney General's testimony:

"The unavoidable potential liability, arising from natural conditions, is against the public's best interest. The burden of potential liability arising from natural conditions of unimproved public land is simply not one which the State and counties can reasonably bear."

The Department of Hawaiian Home Lands testified that if the City and County of Honolulu is not provided with the immunity from liability under this bill, beach areas under Hawaiian Home Lands' control such as Makapuu, Nanakuli, Kaupo, and Waimanalo would face the loss of its lifeguards. The Attorney General echoed this belief, stating that lifeguard services at Big Beach on Maui and Ke'e Beach on Kauai have already experienced the loss of lifeguard services due to liability concerns.

Your Committee was also informed by the City and County of Honolulu that during the course of a year, City Water Safety Officers watch over approximately 18-20 million visitors and residents who use the beach and adjacent waters for recreational and subsistence activities. On any given day, there are approximately 65 Water Safety Officers on duty to oversee the safety of beach- and ocean-goers. Your Committee believes that it is unreasonable to assume that these 65 Water Safety Officers would be able to warn everyone.

Your Committee further finds that government has little control over the condition of unimproved public lands, including high surf, hazardous weather and water conditions, inherent hazards in the natural environment, and actions of individuals who may choose to ignore warning signs which are posted at the beach or at recreational trails.

As affirmed by the record of votes of the members of your Committee on Planning, Land and Water Use Management that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2012 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chairman on behalf of the Committee.

Ayes, 6. Noes, none. Excused, 1 (Ige).

SCRep. 1607 Ways and Means on S.B. No. 2001

The purpose of this bill is to move the State toward a pure no-fault system of insurance for both motor vehicles and motorcycles.

Specifically, this bill abolishes most tort liability for personal injuries arising out of motor vehicle and motorcycle accidents, eliminates required bodily injury liability insurance for motor vehicles and motorcycles, eliminates optional uninsured and underinsured motorists coverages, repeals the medical-rehabilitative threshold of \$20,000, and raises the amount of required medical coverage available to an injured person under the person's own motor vehicle insurance policy. Medical coverage amounts are raised from the present level of \$10,000 to a more reasonable, minimum level of \$250,000, with the possibility that the level may be raised by the insurance commissioner up to \$1,000,000. This measure also makes medical coverage, previously optional, a required coverage for motorcycles, and in comparable amounts as for motor vehicles. The high levels of medical coverage under both motor vehicle and motorcycle insurance policies are intended to fully cover ninety-nine per cent of all vehicular accident claims.

This bill recognizes that medical coverage is the crucial element of motor vehicle insurance. Thus, this bill augments mandatory medical coverage limits with both optional increased medical coverage limits and optional coverage for pain and suffering for very serious injuries. Furthermore, to ensure affordable medical costs for increased coverage limits, this measure authorizes motor vehicle insurers to offer medical benefits through a managed care provider such as a health maintenance organization or a preferred provider organization.

To further ensure that injured persons receive adequate compensation, this bill does not abolish all tort liability. Even though bodily injury liability coverage is no longer required, tort actions for bodily injuries may still be pursued in certain circumstances as a safeguard measure to obtain complete medical services. Generally, if an injured person sustains accidental harm in excess of all available no-fault benefits, then that person may pursue a tort action against the offending motorist for those excess damages. However, the injured person may not sue in tort if the injured person is the operator of an uninsured vehicle that the person should have known was uninsured.

Furthermore, this bill makes wage loss benefits available under one's own motor vehicle insurer as an optional coverage. Presently, wage loss benefits and medical benefits are required for motor vehicles. For many retirees who are not receiving income from wages, this coverage is simply not necessary. This bill continues wage loss benefits as an optional coverage for motorcycles.

This measure also continues to recognize tort liability for property damage arising out of motor vehicle and motorcycle accidents. Therefore liability coverage for property damage is still a requirement for motor vehicle and motorcycle insurance policies.

Your Committee believes that this measure has a number of socially desirable features. This bill provides complete and affordable medical coverage for accidental harm. Medical coverage amounts are high enough to obviate the need to access the tort system for damages in excess of an unreasonably low and easily abused medical-rehabilitative threshold. No delays are anticipated in receiving medical services, since an injured person will look only to the person's insurer and not have to wait out a lengthy court battle for damages that exceed a low tort threshold. Consequently, although this bill preserves access to the tort system for the rare catastrophic cases, by and large, this bill also alleviates the court system of most motor vehicle accident cases, which get there only because of a readily surmountable tort threshold, and frees up judicial resources for other matters. Finally, your Committee believes that this measure holds the promise of a reallocation of the financial resources of the community toward endeavors that could enhance the State's economy.

Your Committee has amended this bill to:

- (1) Delete language from page 38, line 18, to page 39, line 14, that was erroneously included in the text of section 431:10G-105, Hawaii Revised Statutes; and
- (2) By making a few technical nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2001, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2001, S.D. 2.

Signed by the Chairman on behalf of the Committee.

Ayes, 9. Noes, none. Excused, 2 (Kawamoto, Solomon).

SCRep. 1608 (Joint) Agriculture, Labor, and Employment and Ways and Means on S.B. No. 1810

The purpose of this bill is to amend the laws relating to retirement benefits for legislators.

Specifically, the bill:

- (1) Establishes a definition of "legislator" in Chapter 88, Hawaii Revised Statutes; and
- (2) Amends the manner in which a legislator's pension is calculated by:
 - (A) Multiplying the years of service as a legislator by the appropriate pension accrual rate;
 - (B) Multiplying the nonlegislative years of service within the Employees' Retirement System by the pension accrual rate appropriate to the nonlegislative position; then
 - (C) Adding the two amounts together.

Your Committees find that although there is a need to adjust the retirement benefits for elective officers, the bill as drafted, does not provide an equitable solution to the problem. By singling out legislators, the bill unfairly imputes that legislators are the only officials that benefit under the existing retirement system. Your Committees believe that in order to adjust the retirement benefits in a fair and just manner, additional clarification and amendments must be made to the bill.

In light of these concerns, your Committees have amended the bill by:

- (1) Expanding the scope of the bill to include all elective officers and judges;
- (2) Clarifying that if a member has any credited service rendered as an elective officer or as a judge, in addition to credited service in a nonelective position, the member's retirement allowance will be subject to the bifurcated calculation;
- (3) Adding that elective officers and judges must attain the age of fifty-five or have at least twenty-five years of service prior to receiving retirement benefits;
- (4) Requiring that if a member has any service rendered as an executive officer such as Governor, Lieutenant Governor, or Mayor, then the member's retirement allowance will be subject to a trifurcated calculation;
- (5) Removing clerks, assistant clerks, sergeant at arms, and assistant sergeant at arms of either house of the legislature from the special benefit class and treating them as regular members of the Employees' Retirement System; and
- (6) Changing the effective date of the bill from July 1, 1995, to July 1, 1996.

Your Committees believe that the vested rights of current members of the system that are protected under Article XVI, Section 2, of the State Constitution, will not be impaired by this bill; however to ensure that these rights are protected, the Attorney General has been instructed to review this matter.

As affirmed by the records of votes of the members of your Committees on Agriculture, Labor, and Employment and Ways and Means that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 1810, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1810, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairmen on behalf of the Committees.

Ayes, 10. Noes, none. Excused, 2 (Fernandes Salling, Fukunaga).

SCRep. 1609 Human Services on S.B. No. 2304

The purpose of this bill, as received, is to allow the Department of Human Services (DHS) to terminate general assistance payments before the expiration of one year to disabled persons if funds are insufficient to cover one full year.

The purpose of this bill, as amended, is to limit general assistance eligibility for disabled persons to six months and to delete substance abusers from eligibility for general assistance.

This bill would clarify the apparent confusion concerning a recent state circuit court decision which incorrectly interpreted Act 166, Session Laws of Hawaii 1995. The ruling disallowed the DHS from terminating general assistance to disabled persons in less than a year. The intent of Act 166 was to give the DHS budget flexibility to do so. Your Committee believes that the court based its decision on an erroneous statutory interpretation. The statutory amendment in Act 166 added language to section 346-71(b), Hawaii Revised Statutes, which stated in pertinent part, "A disabled person between eighteen and sixty-five years of age shall be eligible for general assistance for not more than one year." Act 166 also added other language explicitly conferring discretionary flexibility to the DHS to determine the allowance for general assistance based on the total amount appropriated for general assistance. Therefore, your Committee finds that this bill is necessary to rectify the current situation for the next fiscal year.

This bill, as amended, provides that disabled persons "shall be eligible for general assistance for a period not to exceed six calendar months." This language is intended to clarify that six months is the maximum period, rather than the current one year.

This bill would also delete substance abusers from eligibility for general assistance and would require the DHS to adopt rules to determine the requirements for categorical eligibility. Your Committee notes that substance abusers were added just last year to those persons eligible for general assistance, in Act 166.

Your Committee is aware of the hardships this bill may pose for general assistance recipients who are disabled or who are substance abusers. However, the dismal financial plight of the State makes this necessary at this time. There is simply not enough funds to go around. Your Committee is also aware that these cutbacks may cause a rise in social and remedial costs in the future, but the realities of the present are inescapable and impossible to ignore. Your Committee sincerely regrets having to pass this bill, but your Committee finds that there is little practical recourse or alternative for the present.

Your Committee has amended this bill accordingly, on recommendation of the DHS.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of 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 referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.

Ayes, 3. Noes, none. Excused, 1 (Grauly).

SCRep. 1610 Ways and Means on H.B. No. 1

The purpose of this bill is to appropriate funds to defray the expenses of the legislature, the auditor, the legislative reference bureau, and the ombudsman during the 1996 regular session and throughout the remainder of the 1996-1997 fiscal year.

Your Committee feels that in these austere times, the Senate has a responsibility to lead by example, and your Committee in consultation with the members of the Senate has agreed to reduce its budget by five percent.

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

Signed by the Chairman on behalf of the Committee.

Ayes, 6. Noes, none. Excused, 5 (Bunda, Fernandes Salling, Fukunaga, Kawamoto, Solomon).

SCRep. 1611 Health on S.B. No. 2118

The purpose of this bill is to require the department of health to provide residential alcohol and other drug abuse treatment services to women in childbearing years, pregnant women, parents and their dependent children, and non-

custodial parents who are likely to regain custody of their children after satisfactory participation in a treatment program. The bill also establishes criteria for programs and requires funded programs to collect and report data.

A memorandum submitted by the director of health agreed with the intent and purpose of the bill but expressed reservations regarding the need for additional funding. A memorandum submitted by the prosecuting attorney for the city and county of Honolulu supported passage of the bill.

Your Committee has made technical, nonsubstantive changes to the bill.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2118, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2118, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kanno).

SCRep. 1612 Health on S.B. No. 2134

The purpose of the bill is to make an appropriation of \$555,000 out of the general revenues of the State for fiscal year 1996-1997, for the operation of the West Hawaii emergency medical helicopter.

Testimony submitted by the Hawaii Medical Association and Frederick C. Holschuh, M.D., supported passage of the bill.

Your Committee made a technical, nonsubstantive change to the bill.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2134, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2134, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kanno).

SCRep. 1613 Health on S.B. No. 2441

The purpose of the bill is to establish a statewide system of community-based primary health care centers in medically underserved areas and for medically underserved populations.

Testimony submitted by the Hawaii Nurses' Association and the Hawaii State Primary Care Association supported the passage of the bill. Testimony submitted by the director of health supported the passage of the bill with two amendments conforming the bill to the proposals and objectives stated in the State of Hawaii's Primary Care Access Plan dated July, 1995.

Your Committee has amended the bill by incorporating the recommendations of the director of health; codifying the language as a new section in chapter 321; and making technical, nonsubstantive changes.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 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 the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kanno).

SCRep. 1614 Communications and Public Utilities on S.B. No. 640

The purpose of this short-form bill is to effectuate its title relating to communications.

Your Committee recognizes the importance of public access community television, especially to the neighbor islands. Private, nonprofit organizations such as Ho'ike Kauai on Kauai, transmit, via stations provided by local cable companies, public, educational, and governmental programming which includes proceedings of the state legislature.

Your Committee finds that because of limited channel capacity of these neighbor island organizations, and the growing popularity of public access television, more local public, educational, and governmental programming is being produced than can be aired in primetime slots.

Your Committee has amended this bill by deleting all existing language and substituting language requiring the Director of Commerce and Consumer Affairs to work with the Cable Advisory Committee and cable operators to increase the number of new public access channels in each service area by December 31, 1996.

As affirmed by the record of votes of the members of your Committee on Communications and Public Utilities that is attached to this report, your Committee is in accord with the action to report out S.B. No. 640, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 640, S.D. 1, and be recommitted to the Committee on Communications and Public Utilities for further consideration.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Liu).

SCRep. 1615 Communications and Public Utilities on S.B. No. 641

The purpose of this short-form bill is to effectuate its title relating to communications.

Your Committee recognizes the importance of public access community television, especially to the neighbor islands. Private, nonprofit organizations such as Na Leo 'O Hawai'i, transmit, via stations provided by local cable companies, public, educational, and governmental programming, including proceedings of the Legislature.

Your Committee finds that current technology requires that legislative proceedings be broadcast from Oahu to the neighbor islands at inconvenient viewing times, such as late nights or early mornings. Improving the public access organizations' broadcasting equipment would allow them to tape legislative proceedings and then replay them during prime viewing hours.

Your Committee has amended this measure by deleting all existing language and substituting language appropriating moneys for fiscal year 1996-1997 for grants-in-aid to the neighbor island public access organizations to purchase taping and other equipment needed for broadcasting state legislative proceedings. A similar appropriation was passed by the Legislature during the 1995 First Special Session, but funds have yet to be released. Your Committee believes that this bill, as amended, will encourage neighbor island participation in the legislative process and ultimately ensure a healthy democracy in Hawaii.

As affirmed by the record of votes of the members of your Committee on Communications and Public Utilities that is attached to this report, your Committee is in accord with the action to report out S.B. No. 641, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 641, S.D. 1, and be recommitted to the Committee on Communications and Public Utilities for further consideration.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Liu).

SCRep. 1616 Communications and Public Utilities on S.B. No. 646

The purpose of this short-form bill is to effectuate its title relating to information practices.

Your Committee finds it vital during these tough economic times that state information and technology resources be deployed in the most cost-effective and efficient manner possible.

Wide-ranging new communication technologies like the Internet's World Wide Web and electronic imaging and funds transfers provide state government with an opportunity to deliver its services faster, cheaper, and to a broader audience. At the same time, however, severe budget cutbacks have restricted the ability of many state agencies to access and deploy these new technologies, even though they may represent the most efficient means of leveraging limited public resources in delivering government services more effectively.

Your Committee has amended this bill by deleting all existing language and substituting language establishing a chief information officer (CIO) position within the office of the governor. It is intended by your Committee that the CIO, among other things, will:

- (1) Coordinate the use of information and communications technologies to improve the delivery of government services in areas such as lifelong learning, health care and human services, public safety, and electronic commerce;
- (2) Develop public-private financing strategies to help expand the extent to which information and communications technologies are used throughout state government; and
- (3) Regularly report to the Legislature on the status of these and other matters relating to the improved delivery of government services.

As affirmed by the record of votes of the members of your Committee on Communications and Public Utilities that is attached to this report, your Committee is in accord with the action to report out S.B. No. 646, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 646, S.D. 1, and be recommitted to the Committee on Communications and Public Utilities for further consideration.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Liu).

SCRep. 1617 Economic Development on S.B. No. 667

The purpose of this short-form bill is to effectuate the title relating to ocean resources.

Your Committee finds it vital to the economy of the State that resources be focused to develop and expand markets in the Asia-Pacific region for Hawaii's capabilities and assets in ocean science and technology.

Your Committee finds that Hawaii's ocean research and development (R&D) industry has increased from \$20 million to \$95 million in annual revenues between 1981 and 1994 and demonstrates considerable potential for increased growth.

Hawaii risks losing considerable market share, however, to competing regional and international interests that are aggressively promoting their respective ocean R&D programs and capabilities.

Your Committee has amended this bill by deleting all existing language and substituting language to appropriate moneys to strengthen the competitive position of Hawaii's ocean R&D industry and generate needed revenues for Hawaii's economy.

As affirmed by the record of votes of the members of your Committee on Economic Development that is attached to this report, your Committee is in accord with the action to report out S.B. No. 667, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 667, S.D. 1, and be recommitted to the Committee on Economic Development for further consideration.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Levin).

SCRep. 1618 Education on S.B. No. 2370

The purpose of this bill is to establish a business corporation within the department of education for the purposes of supporting educational, scientific, and business pursuits of public school students and staff which promote the general welfare of the people of the State.

Your Committee finds that currently there exist various educational initiatives within the public schools which have the potential to support real life application through the development and marketing of school-based products and services. Your Committee further finds that the establishment of this corporation is similar in concept to the authority which is provided to University of Hawaii students and faculty to develop and market university-based products and services.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2370 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Matsunaga).

SCRep. 1619 Education on S.B. No. 2647

The purpose of this bill is to establish the school entrepreneurship special fund into which shall be deposited all moneys derived from school-run business ventures.

Your Committee finds that there presently exist various school-run business ventures and proposed entrepreneurial projects that are capable of generating revenues which can be used for ongoing support of these ventures. Your Committee further finds that the ability of students to share in the responsibility for generation and management of these resources is an invaluable teaching tool that will assist them in their future life experiences.

Your Committee has amended this bill by deleting subsection (c) relating to the lapsing provisions of the state general fund, since they do not apply to special funds.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2647, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2647, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Matsunaga).

SCRep. 1620 Judiciary on S.B. No. 2264

The purpose of this bill is to establish an additional source of funding to provide legal services for indigent persons in Hawaii. The funds to support these additional legal services will be raised through surcharges on certain filing fees in civil cases.

A study on the availability of civil legal services to Hawaii's poor was recently conducted by the Spangeberg Group, a nationally recognized group that specializes in the study of programs for the indigent. The Spangenbergs report found that fewer than ten percent of the legal problems of the poor were being addressed by any entity. In fact, the report found that Hawaii has the lowest rate of civil legal services to the poor in any jurisdiction previously studied. Your Committee is well aware that a typical Hawaii resident affected by this shortfall of legal services is the single mother with earnings that place her near or below the poverty level. Unable to afford or find legal services, the unfortunate result is that most of these Hawaii residents with domestic abuse problems, landlord-tenant disputes and even individuals wanting to write a simple will do not have access to our civil justice system.

Your Committee finds that the legal needs of Hawaii's indigent population are not being met due to inadequate funding of organizations that provide such services. In the early 1980s, federal funding for indigent legal services was cut by approximately twenty-five per cent and has never been restored to its earlier levels. Although the State has appropriated funds to help support these organizations, the funds have been barely sufficient to compensate for all of the federal cuts made. The new filing fees established under this measure will enable the State to provide supplementary assistance to organizations that address the legal needs of Hawaii's indigent.

Your Committee has amended this bill by:

- (1) Deleting the requirement that persons requesting the issuance of post-judgment writs pay an additional \$10 in addition to all other fees;
- (2) Requiring the director of finance or a nonprofit organization under contract issued by the director of finance, rather than the administrative director of the courts, to administer the indigent legal assistance fund;
- (3) Requiring the commission on access to justice, rather than the state supreme court, to perform a review of the filing fee surcharge program;
- (4) Requiring the review of the filing fee surcharge program to be performed by January 1, 1998, rather than July 1, 1999;
- (5) Requiring the department of budget and finance to review all grants issued under the program and submit a report to the legislature no later than January 1, 1998; and
- (6) Making technical nonsubstantive amendments.

Your Committee finds that permitting the director of finance to administer the indigent legal assistance fund is appropriate for the same reasons that the public defender's office (BUF151), which provides legal assistance to the indigent in criminal proceedings is administratively attached to the department of budget and finance.

Your Committee further finds that the authority of the department to contract with a nonprofit organization for the administration of the special fund permits the department's involvement to be ministerial rather than programmatic in nature.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2264, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2264, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Chumbley, Matsunaga, Anderson).

SCRep. 1621 Human Services on S.B. No. 2713

The purpose of this bill is to enact reforms to the general assistance law to allow the Department of Human Services (DHS) to implement planned welfare changes to enable the DHS to remain within its budget and to accommodate changes in the federal grant system to the states.

This administration bill would:

1. Increase from \$1,000 to \$5,000 the amount of assets to be disregarded in determining needs for financial assistance (public assistance);
2. Delete the requirement of basing the assistance allowance on a percentage of the standard of need;
3. Apply the standard of need to general assistance;
4. Delete substance abusers from general assistance;
5. Limit general assistance to disabled persons to six calendar months rather than one year and delete the discretion of the DHS to extend the one year eligibility pending determination of eligibility under the Federal Supplemental Security Income Program;
6. Delete the requirement of an annual reevaluation of persons certified as mentally or physically impaired, thereby leaving the reevaluation as required by the DHS; and
8. Require the DHS to adopt rules to determine requirements for categorical eligibility.

Your Committee is aware of the concerns expressed by the welfare recipient community that these changes will cause significant hardship and have long-term adverse consequences. However, your Committee believes that these measures are valid and necessary at this time to adequately plan for and respond to the changing financial environment as it affects budgeting and appropriations for welfare programs. Your Committee is not being insensitive but is being realistic, though perhaps reluctantly. These measures would help as many people as possible within limited resources, while being fair and impartial. Unfortunately, priorities have to be established as there is no way to accommodate everyone.

Your Committee has amended this bill on the recommendation of the DHS in its supporting testimony by adding a provision to clarify the rights of persons already receiving general assistance as of the effective date of the Act and made technical, nonsubstantive amendments.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2713, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2713, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, none.

SCRep. 1622 Human Services on S.B. No. 2717

The purpose of this bill is to repeal the "Board of Human Services" within the Department of Human Services (DHS).

The statutory function of the Board of Human Services is to serve in an advisory capacity to the DHS. According to testimony of the DHS, members of the Board of Human Services could better serve the DHS in that capacity by becoming members of one of the programmatic advisory committees serving the DHS.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2717 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, none.

SCRep. 1623 Human Services on S.B. No. 2719

The purpose of this bill is to make an emergency appropriation of funds for health care payments under various federal programs.

Specifically, the bill appropriates the sum of \$96,037,955 for fiscal year 1995-1996 for the Hawaii QUEST and medicaid programs. Under the new federal block grant formula, the Department of Human Services must increase its federal ceiling in order to meet its fiscal obligation to provide health and health related services to Hawaii QUEST and medicaid recipients.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2719 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, none.

SCRep. 1624 Human Services on S.B. No. 2851

The purpose of this bill is to repeal the Advisory Council for Community Services (Council) within the Office of Community Services for the Department of Labor and Industrial Relations.

According to testimony of the Department of Human Services, the Office of Community Services has found it to be more economical and meaningful to work with other existing groups to achieve the same purposes for which the Council was created. Therefore, elimination of the Council would remove duplication and save unnecessary expenses.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2851 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, none.

SCRep. 1625 Human Services on S.B. No. 3002

The purpose of this bill is to require the counties to expedite the permit review and approval process for assisted living and long-term care facilities by designating a single coordinating agency to process all applications and approval for permits.

There is currently only one assisted living facility in Hawaii, the Ponds at Punaluu, which is due to open in about a year. Assisted living is a new concept to Hawaii, although it is enjoying considerable success on the mainland, most notably in Oregon and Washington. It is an alternative to care homes, nursing homes, and retirement communities. An assisted living facility is a hybrid of hotel, retirement home, and elderly apartment complex, where the residents have their own apartment-like homes. In assisted living, people do as much as they can for themselves. Care plans are flexible and tailored to the individual physical capabilities of the residents. It is estimated that assisted living costs about half of what a nursing home must charge.

A major difficulty with building more assisted living facilities and long-term care facilities is the county permit process requirements for the planning, design, and construction of these units. This bill would streamline and expedite that notoriously lengthy procedure, which can take years. This bill reduces the time to one-hundred-eighty days and provides safeguards to protect the health and safety of the potential residents.

Testimony in support of this bill was received from the Department of Housing and Community Development of the City and County of Honolulu which analogized it to expediting the development of affordable housing projects. Supporting testimony also was received from the Assisted Living Options Task Force (ALOT) and the Hawaii Long Term Care Association.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3002 and recommends that it pass Second Reading and be referred to the Committee on Transportation and Government Affairs.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, none.

SCRep. 1626 Human Services on S.B. No. 3218

The purpose of this bill is to appropriate matching funds for medicaid for the developmentally disabled for home and community based services.

According to testimony of the Department of Human Services, the amount of the State's share should be \$1.5 million instead of the \$7 million presently appropriated in the bill. This is because of the State's fiscal crisis and the impact the larger sum would have on other programs.

Your Committee has amended this bill to change the appropriation sum from \$7 million to \$1.5 million.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3218, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3218, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, none.

SCRep. 1627 Economic Development on S.B. No. 662

The purpose of this short-form bill is to effectuate its title relating to economic development.

Your Committee finds it vital that aggressive steps be taken to spur economic growth, especially in impoverished areas of the State. No state enterprise zones have been established under current law to help revitalize targeted areas by means of regulatory flexibility and tax incentives since the law's enactment in 1986.

Your Committee notes that the Michigan Senate, in what appears to be one of the most innovative steps yet to be taken by any state, has recently passed a bill that would abolish all state and local income and property taxes in eight areas singled out for economic development. Under the provisions of this bold measure, the State of Michigan will attempt to turn these eight selected areas into "renaissance zones", where residents and businesses, for up to fifteen years, would pay only federal taxes, local sales taxes, and taxes tied to bonds already issued. Five zones would be in cities, three would be reserved for rural areas, and the State would reimburse localities for the loss of any financing for schools.

Your Committee has amended this bill by deleting all existing material and by substituting language similar to that found in the Michigan Senate bill, providing for the establishment of state renaissance zones. In so doing, your Committee hopes to engender further discussion on the importance of revitalizing the State's impoverished areas and analysis of whether the proposed measure may replace or otherwise supplement current law.

As affirmed by the record of votes of the members of your Committee on Economic Development that is attached to this report, your Committee is in accord with the action to report out S.B. No. 662, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 662, S.D. 1, and be recommitted to the Committee on Economic Development for further consideration.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Levin, Tam).

SCRep. 1628 Communications and Public Utilities on S.B. No. 2869

The purpose of this bill is to increase the ability of public "boards" (defined in Section 92-2, Hawaii Revised Statutes, as public agencies, boards, commissions, authorities, or committees required to conduct meetings and take official action) to hold meetings by videoconference.

In particular, this bill provides that a meeting held by videoconference shall be in recess while audio and video communication with all locations cannot be maintained. Under current law, the meeting is terminated in such instances. The bill also allows (rather than requires, under current law) each board to adopt rules regarding the use of and the procedures to be followed in a meeting held by videoconference, before the meeting is held.

Your Committee finds that this bill will encourage greater use of videoconferencing for public meetings, which has proven much more cost-efficient than requiring the physical presence of all board members in a single location. It will also promote greater participation in the public decision making process, especially with respect to key decisions affecting the neighbor islands.

Your Committee has made several technical, nonsubstantive amendments to this bill for purposes of style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Communications and Public Utilities that is attached to this report, your Committee 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 Judiciary.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Chumbley, Liu).

SCRep. 1629 Communications and Public Utilities on S.B. No. 2923

The purpose of this bill is to allow the Department of Taxation to accept the electronic, telephonic, or optical filing of tax returns.

Your Committee finds that the Department of Taxation is in the process of restructuring the tax processing system to increase efficiencies, as well as to respond to the computer capabilities of taxpayers. Part of that restructuring involves the transition to "paperless" or computerized filing.

Your Committee believes that a tax processing system which includes electronic filing will be significantly more cost-efficient than the present system, the administration of which requires an enormous number of personnel hours. It is also predicted that electronic filing will cut down on the amount of human error inherent in the current paper-based system.

As affirmed by the record of votes of the members of your Committee on Communications and Public Utilities that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2923 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Chumbley, Liu).

SCRep. 1630 Communications and Public Utilities on S.B. No. 3053

The purpose of this bill is to appropriate moneys for fiscal year 1996-1997 for the establishment of the Molokai telemarketing project, a joint venture between the Maui Research and Technology Park, the Maui Economic Development Board, and the Hawaii High Technology Development Corporation.

Your Committee finds that the proposed project will expand the use of existing telecommunications infrastructure on Molokai to support telemarketing training and remote digital conversion programs, which in turn will present excellent economic development opportunities for residents of Molokai and for the State as a whole.

Your Committee finds that many major Hawaii-based companies currently contract with mainland firms to provide telemarketing support services from outside of the State. These are jobs that could and should be done in Hawaii. The proposed telemarketing project will be a coordinated public/private venture to develop a telemarketing core competency here in the State which, over time, will be able to support, among other sectors, the entire visitor industry in Hawaii.

As affirmed by the record of votes of the members of your Committee on Communications and Public Utilities that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3053 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Chumbley, Liu).

SCRep. 1631 Ecology and Environmental Protection on S.B. No. 659

The purpose of the bill is to effectuate its title relating to the environment.

Your Committee has amended the bill by adding a new section to Chapter 128D, Hawaii Revised Statutes, which exempts interisland tank barges from liability for heavy fuel oil releases.

As affirmed by the record of votes of the members of your Committee on Ecology and Environmental Protection that is attached to this report, your Committee is in accord with the action to report out S.B. No. 659, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 659, S.D. 1, and be recommitted to the Committee on Ecology and Environmental Protection for further consideration.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Chumbley, Ikeda).

SCRep. 1632 Higher Education, Culture, and Arts on S.B. No. 2067

The purpose of this short form bill is to effectuate its title which relates to higher education.

Your Committee has amended the bill by deleting its contents and inserting amendments to section 304-93, Hawaii Revised Statutes, to authorize collection agencies contracted by the university to collect the agency's fees or commissions from the debtor.

Your Committee finds that collection agency costs represent a significant expense to the university. Allowing a collection agency to collect the fees or commissions from the debtor reduces the collection expense to the university, provides an important incentive for the borrower to repay the loan on time, and makes more funds available for new loans.

Your Committee further finds that the federal government allows collection agencies to collect their costs from borrowers under the federal loan programs. Specifically, federal regulations permit the determination of collection costs based on either (1) actual costs incurred for these actions with regard to the individual borrower's loan, or (2) average costs incurred for similar actions taken to collect loans in similar stages of delinquency.

Your Committee agrees with the University of Hawaii's testimony that it should be allowed to apply the same cost-saving and equity measure afforded under federal student loan programs to its loan programs instead of absorbing delinquent loans and collection costs using state appropriations.

As affirmed by the record of votes of the members of your Committee on Higher Education, Culture, and Arts that is attached to this report, your Committee is in accord with the action to report out S.B. No. 2067, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2067, S.D. 1, and be recommitted to the Committees on Higher Education, Culture, and Arts for further consideration.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Fernandes Salling, Fukunaga).

SCRep. 1633 Judiciary on S.B. No. 675

The purpose of this short-form bill is to effectuate its title relating to elections.

Your Committee recognizes that public confidence in the integrity of vote tabulation in primary and general elections is a cornerstone to free government.

Your Committee finds that election irregularities found in two precincts during the last general election have brought to light public concern regarding the integrity of the electronic voting system presently used for Hawaii elections.

Your Committee heard testimony in recent public hearings from the chief election officer and concerned citizens regarding a discrepancy involving 120 ballots in one precinct and 180 ballots in another. Your Committee is aware that the relative size of these discrepancies is insufficient to alter the results in either election. Furthermore, your Committee received testimony from the chief election officer that this matter is presently under investigation by the department of attorney general.

After careful consideration, your Committee has amended this bill to clarify the elections process in issues related to election irregularity.

Specifically this bill:

- (1) Requires the chief election officer to promptly investigate and respond to the request of any candidate to investigate issues related to election irregularity;
- (2) Requires a manual audit to be conducted in all precincts where there is an overage and underage prior to the certification of an election;
- (3) Requires the chief election officer to file a list of all precincts in which an overage or underage of ballots has occurred as a public record; and
- (4) Requires the chief election officer or clerk to attach the list of all precincts in which an overage or underage has occurred to the certificate of election.

Your Committee finds that these amendments will contribute positively to voter confidence in the elections process by providing a mechanism for the explication and depiction of election irregularities involving the counting of ballots in primary or general elections.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the action to report out S.B. No. 675, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 675, S.D. 1, and be recommitted to the Committee on Judiciary for further consideration.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Chumbley, Anderson).

SCRep. 1634 Transportation and Government Affairs on S.B. No. 2074

This bill is a short form bill which your Committee has amended by inserting provisions to provide funds for the design and plans for the Kauai Gateway Beautification Project.

This project will provide landscaping and irrigation improvements to areas close to Lihue airport, and along the roadways and highways leading to the airport, including major highways which were inadequately landscaped by the State in the past. Given the obvious importance of first impressions in beginning a visitor's stay on the Garden Island, it is believed that by enhancing the appearance of the area and making it an example of the spectacular beauty of Kauai it cannot fail to stimulate tourism. The total cost of the project is \$5,200,000; however construction costs of \$4,000,000 will be paid by federal highway funds under the Intermodal Surface Transportation Efficiency Act, and construction costs of \$1,000,000 will be from private contributions, labor, and materials.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the action to report out S.B. No. 2074, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2074, S.D. 1, and be recommitted to the Committee on Transportation and Government Affairs for further consideration.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Solomon, Taniguchi).

SCRep. 1635 Transportation and Government Affairs on H.B. No. 547

The purpose of this bill is to allow special license plates to be issued to survivors of Pearl Harbor. Presently, in recognition of their military service, veterans and recipients of the purple heart are entitled to receive special license plates. The bill proposes to give similar recognition to those persons providing military service to the United States at the time of the attack on Pearl Harbor.

Testimony was received from the City and County of Honolulu which had no objection to the bill, but did note a concern should the number and types of specialty plates proliferate.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 547 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Tanaka, Taniguchi).

SCRep. 1636 Transportation and Government Affairs on S.B. No. 2108

The purpose of this bill is to authorize and create a process by which the Joint Legislative Management Committee can conduct a review of an administrative rule to determine, among other things, whether the rule: is consistent with the statute it implements; is reasonable; tends to promote any abuse of discretionary power by the agency; and, if fees are charged, provides fees related to the costs of administration. Under the bill the a majority of the Committee can introduce corrective legislation if appropriate.

Testimony was submitted by the Department of the Attorney General which opposed the bill on the basis that the title of the bill, "Relating To Rules", was not consistent with the bill subject which concerns the Joint Legislative Management Committee; and on the further basis that the bill was duplicative of and inconsistent with the provisions of chapter 91, Hawaii Revised Statutes.

Your Committee believes the bill's title to be sufficiently broad enough to encompass the bill's subject which is the creation of a process authorizing the Joint Legislative Management Committee to review rules so that there is no title and subject conflict. Further chapter 91, Hawaii Revised Statutes, is concerned with administrative review. The present bill is concerned with legislative review.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2108 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Taniguchi).

SCRep. 1637 Transportation and Government Affairs on S.B. No. 2156

The purpose of this bill is to make liquor licensees, who sell or furnish liquor to a minor, liable to the minor for any injuries, or for the death of the minor to whom the liquor was sold or furnished. The bill also makes clear the legislative intent that law be interpreted to abrogate the holding in Winters v. Silver Fox Bar, et. al., 71 Haw. 524 (1990) in favor of finding that the serving of liquor is the proximate cause of injuries or death to a person consuming the liquor.

Your Committee received favorable testimony from the City and County of Honolulu through its Director of Finance.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2156 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Tanaka, Taniguchi).

SCRep. 1638 Transportation and Government Affairs on S.B. No. 2434

The purpose of this bill is to authorize the Director of Finance for each county to enter into contracts with motor vehicle rental companies for the registration of new motor vehicles.

Favorable testimony was received from the City and County of Honolulu, and from CATRALA-Hawaii. There was no opposition.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2434 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Taniguchi).

SCRep. 1639 (Majority) Transportation and Government Affairs on S.B. No. 2466

The purpose of this bill is to impose a fee upon applicants for a permit to acquire a firearm based on the cost of fingerprinting charged by the FBI. The bill received favorable support from the Department of the Attorney General and the Honolulu Police Department.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2466 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, 1 (Anderson). Excused, 1 (Taniguchi).

SCRep. 1640 Transportation and Government Affairs on S.B. No. 2470

The purpose of this bill is to authorize the release of information by insurers of any investigation of loss resulting from fires of suspicious or incendiary nature to county police chiefs, and state or federal law enforcement agencies; and to further provide that, in the absence of fraud, malice, or criminal act, insurers shall not be civilly nor criminally liable for the release of such information.

There was no opposition to the bill which was favorably supported by the Honolulu Police Department.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2470 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Taniguchi).

SCRep. 1641 Transportation and Government Affairs on S.B. No. 3232

The purpose of this bill is to establish a commission to develop an action plan implementing the recommendations of the 1993 interim commission on government redesign.

The Chamber of Commerce of Hawaii submitted testimony supporting the bill which noted the importance of reassessing the cost-effectiveness and efficiency of governmental operations. Testimony was also received from the Hawaii Government Employees Association requesting public employee representation on the commission.

Your Committee believes that public employee participation is important and necessary to any effort to streamline and restructure state government. Accordingly, the bill has been amended to provide that a member of the commission shall represent public employees and to restructure the appointment process.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3232, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3232, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Taniguchi).

SCRep. 1642 Transportation and Government Affairs on H.B. No. 548

The purpose of this bill is to authorize the issuance of special license plates honoring persons who, while providing military service to the United States, were confined as prisoners of war.

Favorable testimony was received from Paul Heinberg and Al Frumkin, Commander of the Hawaii Chapter of the American Ex-Prisoners of War. Through their testimony, your Committee was informed of the community services of the Hawaii Chapter of the American Ex-Prisoners of War, and learned that all states other than Hawaii allow such licenses. The City and County of Honolulu also testified and noted concern that the proliferation of special license plates could cause difficulty for law enforcement personnel, but had no objection to the bill otherwise.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 548 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Solomon, Taniguchi).

SCRep. 1643 Transportation and Government Affairs on S.B. No. 2508

The purpose of this bill is to restore certain provisions of chapter 286, Hawaii Revised Statutes, which were repealed by Act 164, Session Laws of Hawaii 1995. These repealed provisions allowed a refund or an exemption for vehicles which had been removed from the State, or junked, stored, or stolen. The refund was given for that portion of the year when the vehicle had been removed, junked, stored, or stolen.

Testimony in support of the bill was received from The Car and Truck Rental and Leasing Association (CATRALA). Your Committee learned that repeal of the refund provisions has worked a hardship on car rental companies who often replace rental vehicles during the tax year. In order to reach a compromise with the Director of Finance, CATRALA offered an amendment to the bill which would not revive the repealed refund provisions but would instead allow rental vehicles to be registered for less than a year.

Your Committee has amended the bill as suggested, and has further provided that such rental vehicles will be subject to a quarterly tax equal to twenty-five percent of the annual tax.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee 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 the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Solomon, Taniguchi).

SCRep. 1644 Transportation and Government Affairs on S.B. No. 2583

The purpose of this bill is to minimize the regulatory burden on Hawaii's people and businesses by requiring state agencies to evaluate the effectiveness and efficiency of their regulatory programs, which are not subject to review under chapter 26H, Hawaii Revised Statutes, once every five years, and to submit an evaluation report to the legislature.

Favorable testimony was received from the Small Business Council and Hawaiian Electric Co., and indicated the need to reduce the amount of burdens of over regulation. The Department of Commerce and Consumer Affairs stated its concerns as to the burdens this would place on its limited resources. Your Committee is aware that program evaluations currently are being conducted by the Legislative Auditor as well as by agencies as part of their annual budget review. Accordingly, your Committee has amended the bill to require agencies to review their rules, except for those rules relating to programs subject to review under chapter 26H, Hawaii Revised Statutes.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2583, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2583, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Tanaka, Taniguchi).

SCRep. 1645 Transportation and Government Affairs on S.B. No. 3115

The purpose of this bill is to authorize licensed emergency medical technicians, licensed mobile care technicians, and phlebotomists to draw blood for alcohol or drug testing; and to provide that there are no qualification limitations on the taking of urine samples.

Your Committee has amended the bill to limit the expansion of persons who are authorized to draw blood for alcoholic testing to phlebotomists, and to eliminate the addition of urine specimens from the qualification limitation.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3115, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3115, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Solomon, Taniguchi).

SCRep. 1646 Planning, Land and Water Use Management on S.B. No. 2133

The purpose of this bill is to authorize the issuance of general obligation bonds to fund the development and improvement of the water systems in the Hawaiian Paradise Park subdivision.

Specifically, the bill authorizes the Director of Finance to issue bonds in the sum of \$5,000,000 for the development and improvement of water systems in the Hawaiian Paradise Park subdivision of Puna, Hawaii.

Your Committee received testimony in support of this measure from various public entities such as the Department of Water Supply-County of Hawaii, County Council of Hawaii, Bob Lerro; resident of Hawaii Paradise Park, and Beverly A. Byouk who represented the Big Island Resource Conservation and Development Council. The Department of Land and Natural Resources opposed this bill.

Your Committee finds that this bill requests the State to fund the development and improvement of a water system for the Hawaiian Paradise Park subdivision of Puna, Hawaii. Testimony indicated that there are approximately 8,300 lots in

the subdivision that would benefit from this state-funded project. However, testimony also indicated that there are thousands of other housing lots in the other subdivisions of the Puna area. Although these lots lack water systems as does the Hawaiian Paradise Park subdivision, these lots will not benefit from the funding proposed in this bill.

In view of the foregoing, your Committee is concerned that funding of this project may be construed to establish a precedent that the State, and not the County of Hawaii, should take the lead in developing and improving water systems for other subdivisions in the Puna area.

Although testimony supports the need for the development of a water system in the Hawaiian Paradise Park subdivision, your Committee believes that the County of Hawaii is primarily responsible for the development and improvement of the water system. In light of this belief, your Committee has deleted the specific funding amounts and recommends that any state funds appropriated for this purpose be matched by county funds.

As affirmed by the record of votes of the members of your Committee on Planning, Land and Water Use Management that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2133, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2133, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Matsunaga, Anderson).

SCRep. 1647 Planning, Land and Water Use Management on S.B. No. 2150

The purpose of this bill is to authorize the issuance of general obligation bonds and to make an appropriation for improvements to the Anahola water system.

Your Committee finds that the County of Kauai is seeking funding from the State pursuant to the settlement reached in *Aki v. Beamer*, United States District Court Case No. 76-0144. Under the settlement agreement, the Department of Hawaiian Home Lands granted the County of Kauai a fifteen year license to maintain 1.54 acres of Hawaiian home lands for use as a park. In consideration for past and future years use of this parcel as a park, the County is obligated under the settlement agreement to seek funds from the State for the construction and implementation of a 500,000 gallon water storage tank and supplemental line systems for the Anahola residents. If the State does not grant the County's funding request, the County is further obligated under the settlement agreement to seek such funds from the State every year until the request is granted. Pursuant to the settlement agreement, contempt proceedings may be instituted against the County should it fail to use good faith efforts to obtain the funding.

Based on the testimony from the County of Kauai's Department of Water, your Committee has amended the bill to delete references to the design of the 500,000 gallon storage tank and water improvements related to Anahola well number three, as well as to delete references to the design and construction of water improvements related to Anahola well number four.

Further, your Committee has also amended the bill to delete the specific monetary amounts for further review by the Committee on Ways and Means.

As affirmed by the record of votes of the members of your Committee on Planning, Land and Water Use Management that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2150, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2150, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Matsunaga, Anderson).

SCRep. 1648 Planning, Land and Water Use Management on S.B. No. 2548

The purpose of this bill is to clarify the definition of "recreational purpose" in the landowners' liability law to also limit the liability of a landowner when the landowner's land is being traveled through to access areas for recreational activities.

Your Committee finds that there is a strong public policy towards increasing public access to recreational areas in the State. To further this policy, your Committee finds that a landowner's liability should be limited where a landowner provides public access over its property for purposes of accessing other property for recreational purposes.

Your Committee also finds that if this measure is not passed, the end result may be a decrease in the availability of public access to recreational areas. This inability to achieve such public access is detrimental to good land use planning.

Next, your Committee finds that in light of the United States Supreme Court cases of *Nollan v. California Coastal Comm'n*, 483 U.S. 825 (1987) and *Dolan v. City of Tigard*, 114 S.Ct. 2309 (1994), the issue of takings may arise when a government mandates public access over private property. Although these cases are addressed on a case-by-case basis, your Committee is concerned that if the government mandates access and subsequently prohibits a landowner from protecting itself from tort liability by way of a waiver, this may exacerbate the current situation and further preclude the provision of public access to recreational areas by private landowners.

Finally, your Committee finds that this measure should not be construed as a blanket permission for access to private property, nor as a legislative mandate that all private landowners provide access to recreational areas over their property.

As affirmed by the record of votes of the members of your Committee on Planning, Land and Water Use Management that is attached to this report, your Committee 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 Judiciary.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Matsunaga, Anderson).

SCRep. 1649 Planning, Land and Water Use Management on S.B. No. 2656

The purpose of this bill is to allow the Board of Land and Natural Resources (Board) to accept grants, donations, and contributions and to require the Board to identify specific program areas that would be eligible to receive direct funding assistance from such grants, donations, and contributions.

The Board would be authorized to expend such grants, donations, and contributions on programs including, but not limited to, endangered species conservation, wildlife, fisheries, watershed management, and environmental education.

Your Committee finds that in these austere economic times, the Board is hard pressed to find new ways to protect the State's natural environment. By allowing the Board to pursue revenue enhancement through means other than increased general fund appropriations, the Board will be better able to protect and sustain the State's precious natural resources for future generations.

Your Committee has amended the bill by adding language that requires the Board to annually report to the Legislature:

- (1) The identity of the donor;
- (2) Any specific limitations on the grant, donation, or contribution;
- (3) Whether the grant, donation, or contribution was used in accordance with the requirements specified by the donor; and
- (4) The amount of the grant, donation, or contribution expended.

Your Committee believes that the amendments would provide accountability with respect to how these grants, donations, and contributions are provided and disbursed.

As affirmed by the record of votes of the members of your Committee on Planning, Land and Water Use Management that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2656, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2656, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Matsunaga, Anderson).

SCRep. 1650 Planning, Land and Water Use Management on S.B. No. 3066

The purpose of this bill is to amend Act 211, Session Laws of Hawaii 1994, to extend the sunset date of June 30, 1996, to June 30, 1998, to enable the department of land and natural resources, and the department of agriculture to continue to negotiate and enter into lease agreements in the Hamakua and Hilo coast regions.

Your Committee agrees with the extension of the sunset date.

As affirmed by the record of votes of the members of your Committee on Planning, Land and Water Use Management that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3066 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Matsunaga, Anderson).

SCRep. 1651 Planning, Land and Water Use Management on S.B. No. 3092

The purpose of this bill is to establish a Commission on Hawaii in the Twenty-First Century (Commission) that would make recommendations to the Legislature on the strategic development of the State.

The bill requires the Commission to study the effects and changes produced by scientific and technological achievements and social changes with respect to the economic, political, cultural, and social systems and the environment of Hawaii and the world. Taking all this into account, the Commission is to develop strategies for a preferred future of the State.

Your Committee finds that as the twenty-first century rapidly approaches, the State of Hawaii is at a socio-economic crossroads. At such time, the State must be ready to face the economic reality of reinventing itself to compete in what will certainly be a global marketplace.

Your Committee also finds that in 1970, the Legislature established the Commission on the Year 2000 to anticipate future changes and the impacts they would have on the State, its economy, government, culture, environment, and society. It was the first time that a society made such an effort to anticipate and explore its alternative futures and to

devise ways to move toward the preferred future. Your Committee believes that it is again necessary to collaboratively anticipate the future, its opportunities for new jobs and industries, and other possibilities and impacts.

Your Committee received testimony urging that if the Commission is established, that the Hawaii Research Center for Future Studies be utilized by the Commission in developing its strategies. In light of the testimony presented, your Committee believes that the Hawaii Research Center for Future Studies would be a useful asset to work of the Commission.

As affirmed by the record of votes of the members of your Committee on Planning, Land and Water Use Management that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3092 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Matsunaga, Anderson).

SCRep. 1652 (Joint) Planning, Land and Water Use Management and Judiciary on S.B. No. 2458

The purpose of this bill is to transfer the personnel, powers, functions, and duties of the State's Marine Patrol from the Department of Public Safety (PSD) to the Department of Land and Natural Resources (DLNR).

Your Committees find that the increased use of the State's shores and ocean waters for commercial and recreational activity has resulted in a need for expanded and more effective enforcement programs to preserve and protect Hawaii's natural resources. While the Legislature has authorized additional positions for the State's Marine Patrol Program to mitigate the enforcement staffing shortage problem, inadequacies still exist as the responsibilities for the enforcement of the shorelines and ocean waters are split between the DLNR and the PSD. The Legislative Auditor's Report of December 1992 on this issue revealed that the Marine Patrol belongs more properly in the DLNR, not the PSD.

Your Committees also find that section 200-8, Hawaii Revised Statutes, allows for the expenditure of funds from the Boating Special Fund to finance positions to regulate marine activities. Pursuant to section 200-8, Hawaii Revised Statutes, there are currently eighteen Marine Patrol positions funded by the Boating Special Fund. It is your Committees' understanding that although the eighteen positions are to be transferred from the PSD to DLNR under this bill, they will continue to be funded by the Boating Special Fund. As such, your Committees believe that the personnel transferred under this bill and funded by the Boating Special Fund should only be utilized for purposes consistent with the enforcement, regulation, and management provisions of the Boating Special Fund.

Your Committees have amended the bill to reflect this belief and to ensure that the Marine Patrol Officers whose positions are transferred under this bill and funded by the Boating Special Fund perform only the duties consistent with the purposes of the Boating Special Fund.

As affirmed by the records of votes of the members of your Committees on Planning, Land and Water Use Management and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2458, as amended herein, and recommend 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 the Chairmen on behalf of the Committees.
Ayes, 10. Noes, none. Excused, 2 (Matsunaga, Anderson).

SCRep. 1653 (Joint) Planning, Land and Water Use Management and Higher Education, Culture, and Arts on S.B. No. 2861

The purpose of this bill is to approve a land exchange, upon the fulfillment of certain conditions, between the State and Campbell Estate at Kapolei, Oahu, for the development of a permanent University of Hawaii-West Oahu campus, and to create a special fund for the development of the campus.

Specifically, the bill would satisfy the requirement of section 171-50(c), Hawaii Revised Statutes, that any land exchange entered into by the State is subject to legislative disapproval. Further, this bill amends Chapters 304 and 171, Hawaii Revised Statutes, to provide for a University of Hawaii-West Oahu special fund.

Numerous individuals testified in support of the development of the University of Hawaii-West Oahu campus in Kapolei and in support of this bill. Among those submitting supportive testimony were representatives of several Hawaiian civic clubs, Leeward community leaders, representatives from the Ironworkers' Union and the Plumbers and Pipefitters Local 675, the Chairperson of the Honolulu City Council, Senator Brian Kanno, the state administration and the University of Hawaii.

Your Committees note that the University of Hawaii continues to support the development of three four-year campuses in Hawaii -- University of Hawaii at Manoa, University of Hawaii at Hilo and University of Hawaii-West Oahu. At the public hearing, the President of the University of Hawaii testified that University of Hawaii-West Oahu is to be evaluated later this year by an accreditation review team. He further testified that heavier sanctions may be imposed on the University of Hawaii-West Oahu if substantial momentum is not evidenced with respect to improved facilities at the University of Hawaii-West Oahu. If stronger sanctions are imposed, the University of Hawaii-West Oahu will be a step closer to losing accreditation as a baccalaureate degree granting institution.

The development of the University of Hawaii-West Oahu campus has long "been on the books". Yet, over the past years, sufficient funding has not been available to fully realize the dream of a four-year college campus in West Oahu, nor to even expand the facility to competitive levels. As noted at the public hearing, the result, again, is that the University of Hawaii-West Oahu faces the real prospect of losing its accreditation. The land exchange and the funding mechanism

proposed in this bill provide a true opportunity for the State to finally move ahead with plans to develop a first rate university campus in West Oahu.

Your Committees further note that the land exchange package negotiated by the administration is a substantial improvement over the agreement consummated by the previous administration. Under the new proposal, the University of Hawaii and the State will receive much more land, and will have greater flexibility in the use of these lands. Secondly, the funding proposal advanced in this bill is one which provides the opportunity to construct the University of Hawaii-West Oahu without impairing CIP funding for other state projects.

Your Committees have amended this bill to require that the land mauka of H-1 freeway acquired by the State from Campbell Estate by this land exchange (identified by Tax Map Key Nos. (1)9-2-01:1, (1)9-2-02:1, and (1)9-2-04:5) be conveyed in fee simple by deed to the University of Hawaii, and to make more specific the sources of funding which are to be deposited into the special fund created by this bill.

Next, your Committees have amended this bill to provide that the moneys in the special fund may not be expended for any purpose other than the purposes set forth in this bill without prior legislative approval.

Finally, your Committees have made technical, nonsubstantive amendments for purposes of consistency and style.

As affirmed by the records of votes of the members of your Committees on Planning, Land and Water Use Management and Higher Education, Culture, and Arts that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2861, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2861, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.

Ayes, 8. Noes, none. Excused, 4 (Matsunaga, Anderson, Fernandes Salling, Taniguchi).

SCRep. 1654 Education on S.B. No. 2770

The purpose of this bill is to make an emergency appropriation for public school electricity bills which will exceed the current fiscal year appropriations.

Your Committee finds that the department of education has projected a \$2.2 million shortfall in funds available for electricity used by the public schools during the 1995-1996 school year. Your Committee further finds that the projected shortfall is based upon school-by-school usage statistics over a twelve-month period ending with October 1995. Your Committee notes that the usage statistics were compiled based upon information provided by the various electric utilities operating in the State, and anticipates that more current statistics may be available and more useful in determining a more precise amount to be appropriated.

Thus, your Committee has amended this bill by:

- (1) Deleting the appropriation amounts for further consideration by the Committee on Ways and Means; and
- (2) Making technical nonsubstantive amendments for the purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee 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 referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 1 (Bunda).

SCRep. 1655 Health on S.B. No. 2017

The purpose of this bill is to appropriate funds for twenty-four hour emergency medical services for the Kula area of Maui.

Your Committee has amended this bill by deleting the appropriation for fiscal year 1997-1998, and making technical nonsubstantive changes to the bill for style and grammar.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2017, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2017, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.

Ayes, 3. Noes, none. Excused, 1 (Kawamoto).

SCRep. 1656 Health on S.B. No. 2027

The purpose of this bill is to appropriate funds for twenty-four hour emergency medical services for the Hana area of Maui.

Your Committee has amended this bill by deleting the appropriation for fiscal year 1997-1998, and making technical nonsubstantive changes to the bill for style and grammar.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2027, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2027, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kawamoto).

SCRep. 1657 Health on S.B. No. 2789

The purpose of this bill is to amend the spouse and child abuse special accounts statutes to exclude fees collected under the state public health statistics act; relieve the department of health from the requirements of maintaining a Nanakuli health center, furnishing cancer diagnosis service to needy patients, and providing a registered professional nurse at a school health complex; repeal the sections pertaining to the systematic hearing and vision program and Agent Orange; eliminate the office of aloha health corps and the California-Hawaii cooperative commission; repeal the chapter on health planning and resources development and health care cost control; repeal the law regulating potentially infectious laundry from hospitals and sanatoria; eliminate liability of the master of a vessel bringing a sick person into the State for the moneys expended by the department of health; eliminate the employment program for the chronically mentally ill; and repeal the law determining the disposition of fees received for the issuance of certified copies of birth, marriage, and death certificates.

Your Committee disagreed with the need to amend the spouse and child abuse special accounts statutes to exclude fees collected under the state public health statistics act; repeal the section pertaining to the systematic hearing and vision program; eliminate the office of aloha health corps; repeal the chapter on health planning and resources development and health care cost control; and repeal the law determining the disposition of fees received for the issuance of certified copies of birth, marriage, and death certificates.

Your Committee amended this bill by deleting sections 1, 2, 6, 8, 10, and 14, corresponding to those matters above which your Committee decided was not appropriate for repeal or amendment, and by making technical nonsubstantive changes for style and grammar.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2789, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2789, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, none.

SCRep. 1658 Health on S.B. No. 3034

The purpose of the bill is to decrease the size of letters in signs posted at locations other than vending machines to notify the public that sale of tobacco products to minors is prohibited.

Testimony submitted by the director of health, Hawaii Medical Association, American Lung Association, Hawaii Food Industry Association, and American Cancer Society supported passage of the bill.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3034 and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, none.

SCRep. 1659 Judiciary on S.B. No. 2186

The purpose of this bill is to amend the definition of "owner" as it relates to the offense of unauthorized control of a propelled vehicle and to also remove the affirmative defense contained within that section.

"Owner" is presently defined as a person having mere possession of the vehicle even when the possession is unlawful. When applied together with the current definition of "owner", the current affirmative defense presents a large, unintended loophole for defendants who are able to avoid conviction by alleging that a "friend" loaned the car to him/her.

Your Committee finds that the number of vehicles stolen within our State is alarming. Statistically, the numbers are steadily rising every year with the vehicle theft rate more than doubling in the last four years.

Your Committee received testimony in support of the bill from the Honolulu Prosecuting Attorney and the Consumer Lawyers of Hawaii. Both testified that under current law, prosecution is ineffective because of the loophole in the definition of "owner" and the affirmative defense.

The bill has been amended by defining "owner" as a person, other than the defendant, who has lawful possession of the vehicle. Your Committee used the basic definition in section 708-800, Hawaii Revised Statutes, of the Penal Code, but removed some of the language contained in that section, and deleted the affirmative defense.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2186, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2186, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Anderson).

SCRep. 1660 Judiciary on S.B. No. 2322

The purpose of this bill is to impose a reasonable fee upon applicants for permits to acquire firearms. This bill also allows the chief of police to issue joint firearm permits to spouses.

Your Committee finds that the county police department is inappropriately burdened by the fees charged to it by the Federal Bureau of Investigation (FBI) for fingerprint analysis associated with the firearm permit application process.

Your Committee received testimony from the Honolulu Police Department (HPD) that the FBI charges the police department \$24 for every fingerprint analysis it conducts upon a new permit applicant. Further testimony was received indicating an additional \$18.50 is being spent by the HPD in administrative expenses for the firearm permitting program.

Your Committee finds that this lack of application or permitting fees result in these costs being absorbed by the county police department, and ultimately, by the taxpayers in each county.

Your Committee received testimony in support of the bill from the Attorney General, Honolulu Police Department, the Hawaii Firearms Coalition, and several individuals.

The Hawaii Rifle Association testified in support of background checks for firearms provided the fee would be equivalent to what the FBI charges, apply to first-time applicants only, and the fee would go to the county police departments, not the general fund. The Hawaii Citizens Rights Committee opposed the bill.

The Hawaii Rifle Association also urged the counties to take advantage of the federal funding available under the Brady Bill to establish an instant electronic background check system, precluding the need for the cumbersome manual system and fingerprint fee.

Your Committee also finds that many spouses seek to apply for firearm permits jointly, but current law and procedures do not expressly provide for either joint applications or joint permits. Instead of both spouses receiving a joint permit, current law requires them to apply individually. This creates an unintended result. More individual permit applications are received and more firearms are purchased and owned within the same household. The negative effects associated with the current system are increased firearm ownership which brings with it other problems associated with the proliferation of firearms.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2322, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2322, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Anderson).

SCRep. 1661 Judiciary on S.B. No. 2331

The purpose of this bill is to make amendments to the Hawaii Omnibus Criminal Forfeiture Act, including: increasing the State's burden of proof to a preponderance of the evidence standard; providing for relief from excessive forfeitures; eliminating the criminal forfeiture fund; and making the act permanent by repealing its sunset date.

At the time of its original enactment, the Hawaii Omnibus Criminal Forfeiture Act (Act 260, Session Laws of Hawaii 1988) was given a sunset date of July 1, 1990 to provide legislative oversight to ensure the law was fairly enforced and administered. In 1990, on the recommendation of the auditor, the sunset date was extended to 1993 to allow sufficient time for the attorney general to establish an efficient forfeiture program. In 1993, upon a specific finding that the law had been "fairly enforced and administered" and used in an appropriate fashion, the legislature extended the law an additional three years and requested the auditor to provide a sunset evaluation prior to the 1996 regular session.

In the Sunset Evaluation Report of the Forfeiture Program (Report No. 95-22) the auditor found that: the forfeiture law contains numerous safeguards; the attorney general has implemented the law appropriately and carefully; there exists no evidence of abuse in executing the forfeiture law; the boundaries established by the statute and the moderate approach of the attorney general's department appear to have set the tone for a restrained use of forfeitures by county authorities; over the past few years the attorney general has made improvements in the administration of the criminal forfeiture fund; and financial audits by Deloitte & Touche for fiscal years 1991-1992 and 1992-1993 indicated no internal control or legal compliance problems in the administration of the fund.

In the past, the rationale for keeping the forfeiture program temporary was that, because of its powerful nature as a tool in the fight against crime, it required periodic oversight by the legislature. However, given the program's track record since 1988, your Committee agrees with the auditor's recommendation that the forfeiture law be made permanent. Your Committee finds that a more appropriate form of legislative oversight remains in the annual reporting requirement of section 712A-16(6), Hawaii Revised Statutes. Moreover, nothing would preclude the legislature from reexamining the forfeiture program and the dispositions of the criminal forfeiture fund at any future date, should the need arise. Furthermore, your Committee finds that the attorney general has experienced difficulty retaining qualified staff for the

program because of the constant threat of elimination of the temporary program and its positions. Without the necessary staff and expertise, use of the program has been and will continue to be limited. Permanent enactment of the criminal forfeiture act would resolve this problem.

Your Committee disagrees, however, with the auditor's recommendation that the criminal forfeiture fund be eliminated because it does not meet the criteria of reflecting a clear link between charges and benefits. Your Committee believes the focus has erroneously been placed upon law enforcement as the beneficiary of the forfeiture program. Forfeitures serve a public purpose of removing from certain members of the public assets that either facilitate or are derived from illegal activity. These forfeited assets or the proceeds therefrom are used to administer the forfeiture program, train and educate law enforcement personnel, and provide supplemental payments to state and county agencies for law enforcement purposes. Such use of these assets or proceeds is for a public purpose and benefit.

Forfeiture provides an immediate deterrent from future illegal activity involving those assets forfeited or precludes any further enjoyment of forfeited assets derived from illegal activity. As to the issue of wider deterrence, your Committee acknowledges that, because the deterrent impact cannot be measured in crime statistics, no hard, conclusive evidence exists to prove the deterrent value of forfeitures. However, to say that no hard evidence exists to prove a fact is not the same as saying the fact is disproved. Accordingly, your Committee gives credence to the Honolulu prosecutor's testimony that there are indications that only ten per cent of those with prior seized assets are likely to be recidivists. In addition, a decline in the fund's balance suggests that criminals may be getting the forfeiture message and can be taken as an indication of effective deterrence. Moreover, in view of shrinking financial resources and prison overcrowding, your Committee strongly believes that every lawful weapon in the war on crime that does not entail additional expenditure of public moneys or incarceration of additional inmates should and must be used to the fullest extent possible.

Furthermore, relying upon the auditor's findings that the fund has been properly administered, there has been no evidence of abuse with respect to the forfeiture program, and a number of safeguards exist to prevent abuse, your Committee finds that the fund has been used in accordance with public interest to provide funding for law enforcement to administer and support the program, particularly in the areas of training and continuing education, which are vital to maintaining the high standards among law enforcement agencies and personnel that the public deserves and expects. Your Committee expresses concern that elimination of the fund may threaten law enforcement's ability to maintain such high standards in the face of dwindling revenues.

Finally, your Committee notes that administrative forfeiture proceedings are held only in instances of uncontested seizures, after proper notice has been given. In contested forfeitures, however, a person claiming an interest in the property is entitled to a judicial hearing with all the attendant rights and safeguards. Accordingly, your Committee believes that the State, in such instance, should be held to a higher standard of proof than probable cause.

Your Committee has amended this bill by:

- (1) Deleting section 1 of the bill stating its purpose;
- (2) Clarifying that the new section granting relief from excessive forfeitures is an affirmative defense that must be proved by the person claiming an interest in the property and changing the section's title accordingly;
- (3) Deleting the amendments that would have repealed the criminal forfeiture fund, including deleting all of section 6 of the bill;
- (4) Renumbering the remaining sections accordingly; and
- (5) Making technical, nonsubstantive changes for purposes of style, clarity, and consistency.

As affirmed by the records of votes of the members of your Committee on Judiciary that are attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2331, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2331, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Anderson).

SCRep. 1662 Judiciary on S.B. No. 2488

The purpose of this bill is to allow the Ombudsman to employ or retain attorneys, by contract or otherwise.

Your Committee finds that the Ombudsman, who is authorized to investigate complaints against state and county executive branch agencies pursuant to chapter 96, Hawaii Revised Statutes, must now rely on the Attorney General for the provision of legal services. However, in the course of an investigation, using the legal services of the Attorney General may at times present an apparent or actual conflict of interest, for example, if the Attorney General takes a position in opposition to the Ombudsman or is also providing legal counsel to the agency under investigation.

Your Committee finds that these types of situations leave the Ombudsman not only in an awkward position when the Ombudsman also requires legal assistance, but expose the Ombudsman to questions as to the inherent fairness of the investigation itself. Your Committee believes that this bill will allow the Office of the Ombudsman to retain legal counsel as may be necessary that is independent of the executive branch, thereby helping to assure the independence and impartiality of the work of the Ombudsman as well as avoiding any appearance of impropriety.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2488 and recommends that it pass Second Reading and be referred to the Committee on Transportation and Government Affairs.

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (McCartney, Matsunaga, Matsuura).

SCRep. 1663 Judiciary on S.B. No. 2490

The original purpose the bill is to provide for a minimum level of fireworks regulation in the State and to allow the counties to enact ordinances that provide for more stringent regulation of fireworks than the requirements of State law.

Furthermore, the bill would:

- (1) Allow non-aerial common fireworks to be exploded without a permit from 8:00 p.m. to 10:00 p.m., rather than from 9:00 p.m. to midnight, on the 4th of July;
- (2) Prohibit the exploding of non-aerial common fireworks without a permit after midnight on July 5th; and
- (3) Prohibit the exploding of fireworks within 1,000 feet of any building with more than 99 units, or any building in an area zoned and used for high-density, multi-unit housing.

Testimony in support of the bill was received from the American Lung Association, the Hawaii Medical Association, the Hawaii State Association of Counties, the Honolulu Police Department, and two concerned citizens who supported a total ban on fireworks in our State.

Testimony in opposition to the bill was received from the Legislative Information Services of Hawaii who believed the bill would result in four different laws governing fireworks and would allow the illegal and dangerous interisland transportation of fireworks by air and sea.

Based on the testimony received from the Honolulu Police Department that most of the property damage and injury from fireworks are caused by aerial fireworks, your Committee amended the bill by maintaining the statewide ban on aerial fireworks which was enacted by the Legislature in 1995, but allowing citizens to use non-aerial fireworks for cultural, religious, and celebratory occasions; specifically, New Year's Eve, Chinese New Year's Eve, the Fourth of July, or by special permit.

Your Committee also amended the bill by strengthening the penalties for the importation, purchase, or possession of aerial fireworks to make the distributing, selling, offer to sell, or possessing aerial common fireworks punishable by a minimum fine of \$1,000.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2490, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2490, S.D. 1, and be referred to the Committee on Transportation and Government Affairs.

Signed by the Chairman on behalf of the Committee.

Ayes, 6. Noes, none. Excused, 1 (Anderson).

SCRep. 1664 Judiciary on S.B. No. 2494

The purpose of this bill is to establish an electronic prescription accountability system to monitor the prescribing and dispensing of certain controlled substances in an efficient and cost-effective manner that will not impede the appropriate and necessary prescribing of medication and that will ensure the confidentiality of sensitive medical information.

Your Committee finds that the Drug Enforcement Administration estimates that controlled prescription drug diversion constitutes a \$25,000,000,000 annual market. The diversion of controlled drugs can occur in a number of ways including:

- Illegal acquisition of prescriptions by individuals from multiple physicians under the pretense of legitimate medical need;
- Indiscriminate, inappropriate, or careless prescribing by physicians or dispensing by pharmacists;
- Prescription forgery;
- Illegal sales by physicians or pharmacists; and
- Drug theft from physicians and pharmacies.

Schedule II drugs, such as morphine, amphetamines, percodan, and secobarbital, that are legally available to the public for legitimate medical purposes have the highest potential for abuse and addiction because of their psychological or physical effects on the user. There has been a steady increase of drug diversion cases involving known abusers, particularly among medical professionals and hard core drug users. During fiscal year 1994, the narcotics enforcement division investigated eight hundred twenty-five cases directly related to controlled substances, an increase of thirty-three per cent from fiscal year 1993, which had six hundred twenty-two cases.

Although federal efforts to control drug diversion are concentrated at the wholesale and manufacturing levels, Hawaii's efforts have been focused on detecting diversion where it is most likely to occur at the retail level. Hawaii's approach has been a voluntary prescription drug monitoring program known as HISTEM (Hawaii Schedule Two Electronic Monitoring) that tracks the prescribing, dispensing, and purchasing of certain controlled substances. The HISTEM program has enabled narcotics enforcement division investigators to confront physicians or patients at the onset of their abusive behavior, affording narcotics enforcement division investigators the ability to deter these physicians and patients from committing further violations. Over eighty per cent of all individuals indentified through HISTEM are "multi doctor" patients who knowingly obtain controlled substance prescriptions from several physicians for supporting their own habit or to sell to others. The system allows the narcotics enforcement division to monitor the prescribing practices of all physicians statewide and to monitor targeted pharmacies, physicians, and geographic areas for regulatory compliance. The program currently monitors four thousand six hundred physicians and information from one hundred ten thousand schedule II prescription filled annually in the State. Part of the success of the HISTEM program can be attributed to the fact that ninety-seven per cent of all pharmacies doing business in the State are voluntarily participating in the program.

Since the inception of the HISTEM program in March of 1992, the program has initiated over five hundred felony drug cases. During this past year, the narcotics enforcement division has experienced a steady increase in the amount of cases involving the diversion of pharmaceutical controlled substances, particularly among medical professionals and hard core drug users. The narcotics enforcement division investigated eight hundred twenty-five cases directly related to controlled substances. Of these, three hundred eighty-two cases were initiated by the HISTEM program, an increase of forty-four per cent from the previous year.

Your Committee further finds that the HISTEM program recently was selected by the United States Department of Justice as one of the top successful programs in the country. Moreover, the Model Prescription Accountability Act, proposed by the President's Commission on Model State Drug Laws, is essentially the HISTEM program. Similar prescription monitoring programs implemented in ten other states have proven effective in reducing the diversion of controlled substances covered by the monitoring programs.

Your Committee finds that this bill will allow the State's narcotics enforcement division to continue its electronic prescription monitoring program, which has proven its ability to effectively detect persons attempting to divert certain prescribed controlled substances for illegal use.

Your Committee has amended this bill by making a few technical nonsubstantive changes for purposes of style, clarity, and consistency.

As affirmed by the records of votes of the members of your Committees on Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2494, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2494, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Anderson).

SCRep. 1665 Judiciary on S.B. No. 2882

The purpose of this bill is to make various housekeeping changes to the law relating to criminal injuries compensation.

Specifically, this bill:

- (1) Amends the powers and procedures of the Criminal Injuries Compensation Commission to require that written appeals be received by the commission within thirty days of the mailing of a certified copy of the decision and order;
- (2) Amends the cap on reasonable attorneys' fees for awards in excess of \$1,000 from no more than fifteen per cent of the award to \$150;
- (3) Amends the law allowing the commission to reconsider its own orders or decisions on its own motion by providing that the reconsideration be made in the absence of an appeal, and further provides for the mailing, rather than service, of the commission's order or decision to applicants at the applicants' last known address, who are aggrieved by that order or decision and who seek a reconsideration or appeal to the circuit court;
- (4) Replaces "relative of a deceased victim" with "any person" in reference to those persons who may be eligible for compensation for reimbursement of hospital, funeral, and other expenses;
- (5) Changes the requirement that victims of a crime file a police report "without undue delay" to "within seventy-two hours from the date and time of the incident", and allows for excusal for late reporting upon a finding of good cause; and
- (6) Provides that if an applicant has made a false statement or representation of a material fact knowing it to be false, or knowingly fails to disclose a material fact to obtain or increase compensation, the commission shall deny the claim if discovered before payment of the claim. If the false statement is made after payment, the applicant is to be charged with a misdemeanor if the value of the benefit is \$300 or less, or with a felony if the value is \$300 or more.

Although your Committee agrees with the overall intent of this bill, which is to enable the criminal injuries compensation commission to more effectively perform its functions, upon further review, your Committee has amended this bill by:

- (1) Requiring that the written appeals be received by the commission within sixty, rather than thirty, days of the mailing of a certified copy of the decision and order. Your Committee finds that extending the appeals period to sixty days is necessary to give applicants sufficient time to file an appeal, as well as to establish a specific point in time at which the administrative decision will be final;
- (2) Deleting the requirement that victims of a crime file a police report within seventy-two hours from the date and time of the incident and restoring the provision that the report has been made without undue delay. Your Committee finds that many victims--including victims of domestic abuse, gang violence, or organized crime--who typically make a late police report often do so because of fear of retribution by the perpetrator. A seventy-two hour time limit will therefore inevitably penalize some of the most deserving and vulnerable crime victims, who are in the greatest need of support;
- (3) Deleting the requirement that an applicant who has made a false statement or representation of material fact after the payment of compensation be charged with a misdemeanor or felony. Your Committee finds that the attorney general and county prosecuting attorneys already have the authority and discretion to prosecute these types of criminal violations under the Hawaii penal code; and
- (4) Making technical, nonsubstantive changes for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee 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 the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Anderson).

SCRep. 1666 Judiciary on S.B. No. 2886

The purpose of this bill is to authorize the Director of Public Safety to garnish moneys earned or received by committed persons. Specifically, this bill authorizes garnishment of a committed person's moneys for any claims against those committed persons.

The law presently prohibits moneys earned by committed persons and held by the Department of Public Safety from being subject to garnishment, except for restitution to victims and child support payments. Your Committee finds, however, that effective social rehabilitation of committed persons requires that the State attempt to instill in these persons a sense of financial responsibility for their actions while incarcerated.

A sense of financial responsibility is presently not evident in inmate behavior, which includes exorbitant demands against the State and chronic vandalizing of inmate facilities and furnishings. Copying costs requested by inmates as permitted by law for the distribution of legal documents, and the "trashing" of clothing, bedsheets, mattresses, window screens, toilets, sinks, and entire ventilation systems become unbudgeted expenses for the State, and can amount to several thousands of dollars.

Instilling a sense of financial responsibility in a committed person cannot readily be accomplished if an entity other than the committed person always ends up paying the debts and expenses of the committed person. The committed person is not a child; and the State is not its parent.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2886 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Anderson).

SCRep. 1667 Judiciary on S.B. No. 2925

The purpose of this bill is to provide additional opportunities for the department of taxation to collect outstanding taxes from a taxpayer's property by requiring that the Department of Taxation be notified of actions to partition, quiet title, or foreclose upon real property.

The law currently provides that the director of taxation may be joined as a party in an action to quiet title or foreclose upon real or personal property on which the State has or claims a tax lien. This bill requires the Department of Taxation to also be joined as a party in cases involving the partition of real property when the department has a tax lien on that property.

Additionally, the bill requires that a notice be sent to the Director of Taxation when the sale of property is scheduled under the attachment and execution laws. Finally, the bill requires that a copy of the complaint in actions for partition of real estate and quieting title be furnished to the state Director of Taxation.

Although some testimony received on this bill indicated concern about the deluge of paper that would be created, the Director of Taxation stated that any deluge would include the type of paperwork that is helpful to the department. Your Committee agrees with the Director of Taxation that this measure will facilitate the department's efforts to collect taxes from the real property interests of taxpayers who have outstanding tax delinquencies.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2925 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Chumbley, Anderson).

SCRep. 1668 Judiciary on S.B. No. 2987

The purpose of this bill is to change the juror service system from a one-day or one-trial system to a one week or one-trial system.

At present trial jurors must serve one day or one trial during their year of service. This one-day/one-trial system was adopted in 1987 in order to alleviate the economic hardships of jury service and thereby ensure that juries adequately represented Hawaii's diverse communities. Prior to 1987, the State had used a thirty-day system, which had had the effect of eliminating adequate jury representation from poorer socio-economic groups. Prospective jurors from these groups had to be excused from jury duty because of economic hardship. They were often employed in jobs from which they received no salaries during their thirty days of jury service.

Your Committee finds that the one-day/one-trial system has been successful in alleviating the economic hardships of jury service and ensuring that the composition of juries reflects the composition of Hawaii's communities. However, the present system contains some inefficiencies; many potential jurors waste a day at court and unnecessary expenses are thereby imposed on the State. Under the one-day/one-trial system far too many potential jurors must be summoned to court than can be used for that one particular day. The court cannot utilize about forty per cent of all jurors so summoned.

The present bill proposes to lengthen the jury service requirement from one day to one week. A one-week service requirement would appear to lower costs for the State. A greater percentage of potential jurors summoned to court would actually serve as jurors. However, your Committee believes that a one-week service system could have the unwanted effect of causing economic hardships to certain socio-economic groups, which in turn would cause members of these groups to be excused from jury service. Their removal from the juror pool would result in juries that are not adequately representative of the community at large.

Your Committee has amended this bill by lessening the proposed one-week requirement to a two-day requirement. A two-day/one-trial system is far less onerous to potential jurors than a one-week/one-trial system, much less a thirty-day/one-trial system, but not much weightier than the present one-day/one-trial system. A two-day system will continue to ensure that juries adequately represent the community.

Cost savings to the State, however, is expected to be significant, despite only a one day difference from the present system. Since fewer prospective jurors would be summoned under a two-day/one-trial system than under a one-day/one-trial system, projected savings to the State could amount to as much as \$250,000 a year in the first circuit alone.

Furthermore, the prospective jurors who are actually summoned will be managed more efficiently by the courts. At least a half day is needed just to provide orientation services to prospective jurors. A two-day requirement will increase the chances that the prospective juror may actually be selected to sit on a jury.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2987, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2987, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Chumbley, Anderson).

SCRep. 1669 Human Services on S.B. No. 1668

The purpose of this bill is to allow the Department of Human Services to issue provisional licenses to operate adult residential care homes.

This administration bill would replace the current system of temporary permits with a system of provisional licenses. The provisional licenses would be for operators who are temporarily unable to conform to all of the minimum licensing standards and who have documented evidence of progress in meeting those requirements. The Department of Human Services would have the discretion to issue the licenses and to determine the length of those licenses.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1668 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, none.

SCRep. 1670 (Joint) Human Services and Health on S.B. No. 2388

The purpose of this bill is to create a temporary, ad hoc coordinating committee within the Department of Human Services to design and develop a trial single entry point system for long-term care.

Your Committees find that the delivery of long-term care in the nation has been characteristically fragmented and uncoordinated. Hawaii is no exception. The Departments of Human Services and Health have overlapping functions and duplicative efforts in this regard. The result has been to the detriment of the clients and patients because of the lack of coordination and advance planning, thus leading to difficulty in accessing the long-term care system. Nursing home utilization rates have also been adversely affected because of the lack of efficient use of resources of less restrictive and less expensive alternatives. This bill is an initial step to remedy those problems.

Your Committees received supporting testimony from the Departments of Human Services and Health, the State's Executive Office on Aging, the State Planning Council on Developmental Disabilities, the Department of Human Resources of the City and County of Honolulu, and a multitude of private providers of human services and health.

Your Committees have amended this bill by deleting the provisions relating to the establishment of a temporary, ad hoc committee and by inserting provisions to:

- (1) Create an advisory committee within the Department of Human Services to make recommendations to the legislature and the governor for policy and program options for a single entry system for the elderly and disabled; and
- (2) Require the Department of Human Services to design, implement, develop, and coordinate a single entry system for the disabled and the elderly.

Your Committees have clarified that no appropriation is necessary for this bill and have also made technical, nonsubstantive amendments for proper statutory drafting style.

As affirmed by the records of votes of the members of your Committees on Human Services and Health that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2388, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2388, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.
Ayes, 8. Noes, none. Excused, none.

SCRep. 1671 Human Services on S.B. No. 2558

The purpose of this bill is to require the Department of Human Services (DHS) to establish and administer programs and rules for the prevention of domestic and sexual violence and for the protection and treatment of victims of domestic and sexual violence.

Upon recommendation of the DHS, your Committee has amended this bill to include provisions to:

1. Repeal the judiciary's spouse and child abuse special account under section 601-3.6, Hawaii Revised Statutes (HRS);
2. Increase the portion of the fee collected for issuing certified copies of birth, marriage, and death certificates that is to be deposited into the DHS's spouse and child abuse special account; and
3. Increase the portion of the marriage license fee to be deposited into the spouse and child abuse special account of the DHS under section 346-7.5, HRS.

This bill would strengthen the fight against domestic and sexual violence by establishing it as a statutory responsibility of the DHS. This bill also transfers those duties from the judiciary. Your Committee believes that these measures would provide more focus and resources in the struggle to obliterate this despicable and reprehensible conduct.

Your Committee has further amended this bill by clarifying that no appropriation is necessary under this Act and by making technical, nonsubstantive amendments.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of 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 the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, none.

SCRep. 1672 (Majority) Human Services on S.B. No. 2859

The purpose of this bill is to transfer the Executive Office on Aging from the Office of the Governor to the Department of Health.

According to testimony of the Office of the Governor, this bill is part of a "comprehensive reorganization to enhance the efficiency and effectiveness of the Executive's role and function." The Department of Health was selected because, "... the mission of the two agencies are similar and compatible."

Your Committee finds that the Department of Health is inappropriate for this function, because this would:

- (1) Further fragment an already over-fragmented long term care service structure in Hawaii;

- (2) Render impossible the achievement of goals and objectives of a single entry system for long term care;
- (3) Undercut efforts to control inappropriate nursing home utilization;
- (4) Undermine efforts to enhance access to a wide range of community based long term care alternative programs; and
- (5) Be cost ineffective and counter to the interests of the elderly population in Hawaii, who prefer to "age in place" through the availability of residential long term care services.

Your Committee finds that the elderly population would be better served by having the Executive Office on Aging in the Department of Human Services so that its long term care programs and services can be integrated. Your Committee has amended this bill accordingly.

Your Committee wishes to emphasize that this amendment is not to be construed in any way against the Department of Health. However, your Committee believes that the Department of Human Services is in fact the appropriate department for this function.

Your Committee has also made technical, nonsubstantive amendments.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of 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 the Chairman on behalf of the Committee.
Ayes, 3. Noes, 1 (Ihara). Excused, none.

SCRep. 1673 Human Services on S.B. No. 2712

The purpose of this bill is to make an emergency appropriation under Article VII, Section 9, of the state constitution, for child foster care payments under the Family and Adult Services Division of the Department of Human Services.

The amount appropriated is \$880,000 in federal funds of the State for board and board-related costs for children in foster care.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2712 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, none.

SCRep. 1674 Human Services on S.B. No. 2718

The purpose of this bill is to require the Department of Human Services to release the identity of certified foster parents and approved relative caregivers to any association, agency, or government entity which would be of benefit to those parents and caregivers, upon their consent to do so.

This bill would enable associations and agencies that provide support, training, and technical assistance to foster parents and caregivers to contact those persons and thus to increase communication, support, and assistance to them. Raising foster children is a monumental challenge. The end result of this bill would be to benefit the foster child by creating a strong support system among foster parents.

Your Committee received supporting testimony from the Department of Human Services and the Hawaii State Foster Parents Association.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2718 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Ihara).

SCRep. 1675 Human Services on S.B. No. 2790

The purpose of this bill is to create a decategorization demonstration program for multi-problem and multi-service children, adolescents, and their families receiving service from the Departments of Health, Education, and Human Services, and the Office of Children and Youth.

The demonstration program created by this administration bill would develop coordinated interdisciplinary pilot projects that may demonstrate more effective and efficient ways to deliver mental health, educational, and protective services to this target population. To this end, most notable is the creation of a single coordinator and the authority to transfer funds among the departments.

Your Committee finds that the service needs of multi-problem children frequently fall outside of traditional categorical programs. Consolidated decategorized funding will provide a mechanism for the development of improved means of delivering these much-needed services. Your Committee received testimony indicating that there is presently a lack of coordination and cooperation among the departments and among divisions within a department. This bill would remedy this by providing for a means of collaboration, streamlining, and accessibility to services by the target population.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2790 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, none.

SCRep. 1676 Human Services on S.B. No. 2797

The purpose of this bill is to exempt funds received from the federal government for the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) from being deposited into the state treasury.

Current law requires that all state funds be deposited in the state treasury, except for certain funds belonging to patients and wards of the State. This bill would provide another exception for funds provided by the United States Department of Agriculture for the WIC.

This bill would enable the State to provide a new system of vendor payments to merchants accepting food stamps. The food stamps are technically vouchers which food stamp participants redeem for groceries. Grocers then submit those vouchers to the WIC business office for payment. The current system of issuing checks from the state treasury to pay the vendors is cumbersome and inefficient with the over 55,000 vouchers that are processed monthly. An improved system, currently in use in over 35 states, is to pay the vendors by check or draft through the Federal Reserve Banking System with a direct deposit into the vendors' checking account. This is analogous to providing direct banking services for vendor payments.

Your Committee received supporting testimony for this administration bill from the Department of Human Services.

Your Committee has amended this bill to clarify the correct name of the program, to make technical, nonsubstantive amendments, to add the Ramseyer provision, and to change the effective date to July 1, 1997, as recommended by the Department.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2797, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2797, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Ihara).

SCRep. 1677 Human Services on S.B. No. 2856

The purpose of this bill is to repeal chapter 581, Hawaii Revised Statutes, relating to the Office of Children and Youth (OCY), and to transfer those functions to the Office of the Governor.

The OCY is presently under the Office of the Governor. This bill repeals the functions, powers, and duties of the OCY.

Your Committee received supporting testimony for this administration bill from the Office of the Governor. According to that testimony, "The Office of the Governor is currently undergoing a comprehensive reorganization to enhance the efficiency and effectiveness of the Executive's role and function. This bill is part of that reorganization.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2856 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Ihara).

SCRep. 1678 Human Services on S.B. No. 3097

The purpose of this bill is to extend the free no-fault motor vehicle insurance to public assistance recipients of medical services who received those services prior to July 1, 1994, and who continue to do so.

July 1, 1994, was the effective date of Act 225, Session Laws of Hawaii 1994, which deleted the medical service recipients from receiving the free no-fault insurance.

According to supporting testimony of the Department of Human Services, there is a need for these recipients to use their private automobiles on the neighbor islands and in rural areas of the State where public transportation is not readily available, particularly in order to make their medical appointments. Otherwise, they must hire a taxi and the fare is paid by the State as part of medicaid.

Your Committee notes that the free no-fault insurance is supplied by the joint underwriting plan consisting of all insurers writing no-fault insurance in this State. Therefore, there is no cost to the State for this free coverage, although the cost may be included in the actuary calculations of the premium charged to the policyholders.

The State Insurance Commissioner took no position on this bill.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3097 and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, none.

SCRep. 1679 (Majority) Ecology and Environmental Protection on S.B. No. 2227

The purpose of this bill is to provide a tax credit for two years for persons using bioconversion to dispose of wet waste.

Your Committee found the testimony of the Honolulu Disposal & Recycling Company compelling and adopted its recommendation that the costs for separation and storage be eliminated from the costs to which the tax credit would apply.

Your Committee amended this bill by deleting the costs for separation and storage from the costs to which the tax credit would apply.

As affirmed by the record of votes of the members of your Committee on Ecology and Environmental Protection that is attached to this report, your Committee 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 referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 2. Noes, 1 (Aki). Excused, 2 (Chumbley, Ikeda).

SCRep. 1680 Ecology and Environmental Protection on S.B. No. 2777

The purpose of this bill is to allow the director of health to establish loan fees to support the operations of the water pollution control revolving fund.

Testimony supporting passage of this bill was submitted by the director of health, the department of public works and waste management of the county of Maui, and the department of public works of the county of Kauai.

Your Committee amended this bill by making the establishment of fees for loans and other financial assistance mandatory instead of discretionary. Your Committee also made a technical, nonsubstantive change to this bill for purposes of style.

As affirmed by the record of votes of the members of your Committee on Ecology and Environmental Protection that is attached to this report, your Committee 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 referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Chumbley, Ikeda).

SCRep. 1681 Education on S.B. No. 2023

The purpose of this bill is to authorize the department of education to expend funds to provide teacher training as part of a comprehensive educational assessment and accountability system.

Your Committee finds that a comprehensive educational assessment and accountability system is necessary to assure that students are meeting the statewide performance standards adopted by the board of education. Your Committee further finds that teacher training in the development of performance-based assessments for the classroom is a critical component of the comprehensive system.

Your Committee has amended this bill by:

1. Deleting the earmarking of \$175,000 from the allotment made to teacher improvement services from the appropriation for instructional support (EDN 200); and
2. Inserting a blank appropriation to the department of education for further consideration by the Committee on Ways and Means.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2023, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2023, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Bunda).

SCRep. 1682 Education on S.B. No. 2145

The purpose of this bill is to require prior legislative approval of any lease entered into by the department of education for the acquisition of public school facilities, including any lands for these facilities.

Your Committee finds that there is an increasing need for additional classrooms and schools throughout the State. Your Committee further finds that one innovative solution to this need is through lease of facilities and land for public schools. Your Committee further finds that legislative approval of such leases is necessary prior to any long-term commitment of public funds.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2145 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Bunda).

SCRep. 1683 Education on S.B. No. 2208

The purpose of this bill is to authorize the department of accounting and general services to establish temporary project manager positions assigned to the school construction program.

Your Committee finds that additional classrooms and other school support facilities for which funding has been provided through legislative appropriations have not been completed due to a continual backlog in the school construction program. Your Committee further finds that a recent consultant review of the school construction program recommended assignment of project managers in order to assign accountability for and expedite completion of these projects. Your Committee believes that sufficient funds are available in the state educational facilities improvement special fund to support these project managers who will be directly accountable for ensuring that projects supported by this fund are completed in a timely manner.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2208 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Bunda).

SCRep. 1684 Education on S.B. No. 2210

The purpose of this bill is to repeal the sunset provision on the Project SLIMMER program of the state library system.

Your Committee finds that the Project SLIMMER program was established to generate additional revenue sources through enhanced services provided to library patrons for a fee, such as customized research, videocassette rewinding, and bestseller circulation. Your Committee further finds that Project SLIMMER also includes solicitation of donations from private sources to generate additional revenues to support library services and the implementation of self-directed work teams to provide more streamlined operations and more efficient use of library system resources.

Your Committee has amended this bill by making technical, nonsubstantive amendments for the purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2210, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2210, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Bunda).

SCRep. 1685 Education on S.B. No. 2211

The purpose of this bill is to allow the department of accounting and general services to initiate school construction projects from a supplemental priority "B" list when projects from the priority "A" list are delayed.

Your Committee finds that many projects within the school construction program are backlogged because under the present law, the department of accounting and general services must follow the priority list submitted by the board of education. Your Committee further finds that the legislature authorizes expenditures for school construction projects both within the priority list and for additional projects based upon a supplemental list of needs submitted by the board of education. Your Committee believes that the department of accounting and general services should have the latitude to proceed with any authorized project for which funds are available, if it is to expedite the completion of projects and reduce the backlog within the school construction program.

Your Committee has amended this measure by making technical, nonsubstantive changes for the purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee 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 the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Bunda).

SCRep. 1686 Education on S.B. No. 2311

The purpose of this bill is to appropriate funds to implement the Hawaii content and performance standards adopted by the Board of Education in 1994.

Your Committee finds that the Hawaii content and performance standards identify the knowledge and skills which are essential for our students to master in order for them to be productive citizens in the 21st century. Your Committee further finds that these funds will be used by the schools and teachers to redesign their curriculum in order to implement the standards by the 1997 school year.

Your Committee has amended this bill by deleting the appropriation amount to allow for further consideration by the Committee on Ways and Means.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of 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 the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Bunda).

SCRep. 1687 Education on S.B. No. 2363

The purpose of this bill is to designate Hawaiian language immersion programs as student-centered schools.

Your Committee finds that Hawaiian language immersion programs offer alternative educational opportunities in the native Hawaiian language to public school students throughout the State. Your Committee further finds that each district has at least one Hawaiian language immersion program, and that these programs are an example of the alternative educational settings which were envisaged under the concept of student-centered schools.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2363 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Bunda).

SCRep. 1688 Education on S.B. No. 2371

The purpose of this bill is to establish a discoveries and inventions revolving fund into which would be deposited proceeds from inventions and intellectual property developed at the schools.

Your Committee finds that the public schools are fertile ground for the development of products and services by both department of education personnel and students as part of the educational process. Your Committee believes that the proceeds from these products and services should be expended for the purposes of ensuring proper copyright and patenting in accordance with any federal laws, as well as the marketing of such products and services.

Thus, your Committee has amended this measure by:

- (1) Clarifying that any patenting or copyrighting shall be in compliance with federal laws; and
- (2) Making technical, nonsubstantive changes for the purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2371, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2371, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Bunda).

SCRep. 1689 Education on S.B. No. 2500

The purpose of this bill is to establish a zero tolerance policy of exclusion from school of students found in possession of dangerous weapons on school grounds.

Your Committee finds that the federal Gun-Free Schools Act required that each state adopt a zero tolerance policy regarding possession of guns on public school campuses, which was adopted by the State of Hawaii through Act 148, Session Laws of Hawaii 1995. Your Committee further finds that it is equally important to recognize that other types of dangerous weapons need to be banned in order to provide a safe environment in which our children can learn without fear of violence on campus. Thus, this bill extends the zero tolerance policy to students possessing any dangerous weapons on public school campuses.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2500 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Bunda).

SCRep. 1690 Education on S.B. No. 2872

The purpose of this bill is to allow for automatic nomination of candidates for board of education seats if only two persons file papers for the same seat requiring residency.

Your Committee finds that the board of education is composed of district and at-large representatives and involves nonpartisan nominations. Your Committee further finds that this measure will streamline the electoral process by eliminating the need for a primary election ballot when only two persons are running for the same board of education seat requiring residency.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2872 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Bunda).

SCRep. 1691 Education on S.B. No. 2209

The purpose of this bill is to extend certain staffing and financial flexibility provisions to the Hawaii state public library system which have been provided to the department of education.

Your Committee finds that the Hawaii state public library system has implemented innovative staffing programs such as Project SLIMMER and self-directed work teams which were initiated when the library was given the temporary administrative flexibility to reallocate positions. Your Committee further finds that the Hawaii state public library system has also initiated revenue enhancement measures in support of library programs for which a portion of the revenues should be returned to the library system through the same carryover provisions extended to the department of education.

Your Committee has amended sections 1 and 3 of this bill to correct drafting errors and reflect existing statutory language, and made other technical amendments where appropriate.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of 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 the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Bunda).

SCRep. 1692 Judiciary on S.B. No. 2323

The purpose of the bill is to require persons who possess firearms to store them away from third persons, and to impose absolute liability upon a person who fails to store a firearm, the discharge of which causes injury or property damage.

Your Committee finds that household members are at serious risk where firearms are not safely stored within the household. Current law only requires firearm owners to safely store firearms away from the access of minors.

Your Committee received strong testimony in support of the bill from the Department of Attorney General, the Department of Health, the American Association of Retired Persons, the Hawaii Rifle Association, and the Hawaii Citizen's Rights Committee. The latter two groups also testified that the bill should be amended to place the duty of safe storage upon all persons, not just firearm owners.

Your Committee agrees the duty of safe storage should extend to anyone who possesses a firearm, not only to owners. Accordingly, the bill was amended to place this duty upon all persons who possess firearms. The bill also extends the safe storage protections to all persons, not only to minors.

The bill places absolute liability upon a person who fails to comply with the storage requirements should the firearm cause injury or property damage. The Hawaii Rifle Association testified that the absolute liability language in the bill should track the language from Section 663-9.5, Hawaii Revised Statutes, enacted by the 1994 Legislature. Your Committee amended the bill to conform with that section as suggested.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2323, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2323, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Anderson).

SCRep. 1693 Judiciary on S.B. No. 2324

The purpose of this bill is to provide qualifying language to require that the hunting or target shooting currently authorized under section 134, Hawaii Revised Statutes, be privately authorized, and to increase the penalties for trespassing.

Testimony in support of the bill was received from the Department of Land and Natural Resources (DLNR), the Hawaii Citizen's Rights Committee, the Hawaii Farm Bureau, the Hawaii Rifle Association, Koolau Agricultural Company, and Maui Land and Pineapple Company.

Your Committee believes that the intent of this bill is to promote private landowner safety and to preserve private property rights, particularly on the neighbor islands where private property owners and police have been unable to keep individuals from trespassing onto private property for the purpose of growing illegal plants or crops. Unfortunately, many of these individuals are armed.

Your Committee also finds that the bill will appropriately address these problems raised by private landowners by providing for increased penalties to persons who again commit criminal trespass in the second degree to the same property or premises. The bill also provides for the seizure and administrative forfeiture of all firearms from persons who trespass.

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

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Anderson).

SCRep. 1694 Judiciary on S.B. No. 2325

The purpose of this bill is to prohibit the sale of ammunition to a person under the age of twenty-one. The bill makes the sale of ammunition to persons under twenty-one a class C felony.

Current state law does not contain an express provision which prohibits the sale of ammunition to persons under the age of twenty-one; however, Section 134-2, Hawaii Revised Statutes, already prohibits the purchase of firearms by persons under twenty-one.

Your Committee is concerned that under current law, there is the potential for eighteen year olds to purchase ammunition and then pass the ammunition on to third persons, possibly to members of youth gangs. Your Committee believes that if those under twenty-one years of age are prohibited from owning firearms, they should also be prohibited from purchasing ammunition.

Your Committee recognizes that persons under the age of twenty-one currently may go hunting when accompanied by a parent; however, your Committee believes the better policy is to restrict purchases of ammunition to persons twenty-one or over. If a person under twenty-one is hunting with a parent, then the parent should purchase the ammunition in these instances.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2325 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Anderson).

SCRep. 1695 Judiciary on S.B. No. 2326

The purpose of the bill is to immediately remove firearms or ammunition in plain view or discovered pursuant to a consensual search in domestic violence situations.

Your Committee finds that domestic violence is on the increase statewide. Some instances of domestic violence have also involved the use of firearms. The proliferation of firearms within the household is another matter of concern in these situations.

Your Committee received testimony in strong support of the bill from the Department of Health, Honolulu Police Department, Domestic Violence Clearinghouse and Legal Hotline, HOPE Domestic Violence Consultants, Hawaii Firearms Coalition, and from the American Association of Retired Persons.

Recent legislation enacted in 1994 provides that upon receipt of a restraining order from the Family Court, the abusive spouse is prohibited from possessing firearms and ammunition. Your Committee believes that the process for one spouse to obtain a restraining order against the abusive spouse may sometimes be too long of a period to wait, where a firearm is

readily available within the household. Many abused spouses do not even seek the protection of a restraining order, and thus, do not receive its protections.

The bill further extends the intent of recent legislation to protect the family from abuse, and provides authority for law enforcement officers to immediately remove firearms and ammunition from the household in domestic violence situations; however, these items can be removed only when in plain view or discovered pursuant to a consensual search.

Your Committee amended the bill by limiting the authority to remove the firearms and ammunition from only within the household. Your Committee believes the bill achieves its intended purpose in protecting the domestic household in domestic violence situations where firearms are also a threat to safety. Your Committee also made minor non-substantive amendments for further clarification.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2326, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2326, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Anderson).

SCRep. 1696 Judiciary on S.B. No. 2379

The purpose of the bill is to require persons who carry firearms as part of their occupation to relinquish their firearms while not on duty, when a restraining order is placed upon them.

Present law provides exemptions from the firearm restrictions in chapter 134, Hawaii Revised Statutes, to certain persons who carry firearms as part of their occupation. On the other hand, Section 134-7 absolutely prohibits persons who have restraining orders placed upon them from possessing or controlling any firearm or ammunition. There is therefore a conflict of purposes on this matter.

Your Committee finds that in the interest of saving lives, police officers and other personnel who need to be armed while on duty must store their firearms at work, should they be subject to a restraining order. The Honolulu Police Department indicated that they already have a policy in place to cover these situations.

Your Committee received testimony in support of the bill from the Domestic Violence Clearinghouse and Legal Hotline, the Department of Health, the Aiea Methodist Church, the Hawaii Firearms Coalition, and the Hawaii Rifle Association.

Your Committee amended the bill to allow persons who possess firearms as a part of their occupation to possess firearms only while on duty. By removing the firearms from these persons while they are not on duty, your Committee strongly believes the bill achieves its intended purpose in protecting households from the dangers of firearms in restraining order and domestic violence situations.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2379, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2379, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Anderson).

SCRep. 1697 Judiciary on S.B. No. 2416

The purpose of this bill is to require prescriptions prior to the dispensing of any amount of Schedule V drugs, and to require every person who manufactures, distributes, prescribes, or dispenses any controlled substance to provide additional information in support of their application for registration.

Your Committee received testimony in support of this bill from the Department of Public Safety and Longs Drug Stores. Both of these organizations testified that current State law is unclear with regard to the purchase of cough medicine with codeine. Persons with addictions will sometimes attempt to purchase up to four ounces at several locations, one right after another.

Under Federal law, a person wishing to purchase a Schedule V drug, such as cough medicine with codeine, can purchase up to four ounces without a prescription. Current State law is silent on this subject and does not provide any guidance to the pharmacies throughout our State.

Your Committee finds this bill is necessary to clarify the State's position on this matter and to prevent abuse involving Schedule V drugs.

Your Committee also addressed the kinds of information the Department of Public Safety finds necessary for both the labelling of prescriptions and the registration of persons who manufacture, distribute, prescribe, or dispense controlled substances.

Your Committee also made minor non-substantive amendments for further clarification as suggested by the testifiers.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2416, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2416, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Anderson).

SCRep. 1698 Judiciary on S.B. No. 2783

The purpose of the bill is to amend the June 30, 1996 sunset date for drug demand reduction assessments. The bill proposes a new sunset date of June 30, 2001, a period of five years.

The Drug Demand Assessment Program was established by Act 205 of 1995. Persons who are convicted or granted a deferred plea in a felony or misdemeanor drug offense are required to pay a monetary assessment to a special fund known as the "drug demand reduction assessments special fund" which is administered by the department of health.

The department uses this fund to supplement drug or other substance abuse treatment programs and other drug demand reduction programs. Your Committee finds Act 205's one year sunset date has not provided the program with sufficient time to determine its effectiveness.

Your Committee received testimony in support of the bill from the Department of the Prosecuting Attorney, City and County of Honolulu; the Department of Health; the Office of the Prosecuting Attorney, County of Hawaii; and the Office of the Public Defender; however, those testifying had varying proposals as to the length of a new sunset date. Their suggestions varied from two years to permanent enactment of the program:

Your Committee agrees that the June 30, 1996 sunset date needs to be lengthened; however, your Committee has amended the bill's new sunset date from five years to three years. This new sunset date should provide adequate time to determine the program's effectiveness.

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

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Anderson).

SCRep. 1699 Human Services on S.B. No. 2714

The purpose of this bill is to allow the Department of Human Services (DHS) to certify certain foster and child care facilities and organizations for a period of two years.

Current law provides for a duration of one year for a certificate of approval for a child placing organization, child caring institution, and child foster boarding home. After the one year, there is an investigation to ascertain if there has been compliance with standards set by the DHS. This bill would allow the DHS to:

- (1) Certify foster boarding homes and relative caregivers for a two-year period, instead of annually; and
- (2) Certify child placing organizations and child caring institutions for two years;

upon a finding from the investigation that there has been compliance with those standards.

This administration bill would allow the licensing workers to focus more attention on the recruitment and initial licensing of foster homes. Due to the increase in the number of homes that need to be licensed, there is a backlog in licensing. In addition, reducing the number of homes that need to be certified annually would enable the workers to conduct more studies during the recertification process and provide more on-going monitoring, support, and assistance to the agencies and homes.

According to the DHS, it received favorable support for this amendment from child placing organizations, child care institutions, and the Hawaii Foster Parent Association.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2714 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Ihara).

SCRep. 1700 Ways and Means on S.B. No. 2304

The purpose of this bill is to clarify and to reaffirm the legislature's intent in Act 166, Session Laws of Hawaii 1995, to grant the department of human services the authority to administer the general assistance program by either decreasing the maximum period of eligibility for recipients or by decreasing the amount of benefits paid.

This bill limits eligibility for general assistance for all disabled persons, without regard to type of disability, specifically to six months by inserting language to that effect and by deleting the ambiguous phrase "not more than one year." The bill also deletes the provision for extending the now-deleted one-year eligibility pending determination of eligibility for the federal supplemental security income program. The bill further deletes the provision granting six months eligibility to persons whose primary diagnosis is substance abuse because this bill makes no distinction between persons disabled because of substance abuse and other disabled persons and includes substance abusers with other disabled

persons, and not because, as Senate Standing Committee Report No. 1609 erroneously reported, the bill deletes substance abusers from eligibility for general assistance. Finally, this bill requires the department to adopt rules to determine requirements for categorical eligibility.

Your Committee finds that this bill will allow the department of human services to terminate general assistance payments before the expiration of one year to all disabled persons if funds are insufficient to cover one full year. As a result, confusion over a recent court ruling prohibiting the department from doing so will be clarified and the current situation will be rectified. Your Committee further finds that it is the intent of Act 166, Session Laws of Hawaii 1995, to allow the department to terminate general assistance payments before the expiration of one year to all disabled persons if funds are insufficient to cover one full year.

Your Committee recognizes the ramifications of this measure and thus passes this bill with some reluctance. Had there been viable alternatives for funding these populations, the actions of the Committee may have been different. However, your Committee also recognizes that to continue the program at its current levels would require an appropriation of \$8,000,000 for this year and an additional \$22,000,000 for the next fiscal year. Your Committee recognizes that this level of growth is simply unbearable in today's fiscal climate. With this in mind, the Committee chose to preserve full program support to those most in need. With this bill, general assistance to families and children will be preserved.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2304, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.

Ayes, 7. Noes, none. Excused, 4 (Bunda, Fernandes Salling, Fukunaga, Solomon).

SCRep. 1701 Transportation and Government Affairs on S.B. No. 2524

The purpose of this bill is to require that all state agencies use locally-manufactured soil enhancements such as compost, green manures, and other organic mixtures. The bill amends section 103D-1002, Hawaii Revised Statutes, to prohibit state agencies from using any soil enhancing product that is not produced or manufactured in the State.

Akamai Gardeners, the Hawaii Island Landscape Association, the Hawaii Farm Bureau, and the Big Island Farm Bureau submitted favorable testimony. All stated that the bill would support mulching efforts statewide, and would reduce the stream of green waste that now takes up landfill space. The Board of Agriculture and the Department of Accounting and General Services, although supporting the purpose of the bill, submitted testimony in opposition to the bill. Opposition was based on the concern that the Hawaii products preference law does not, as the bill proposes to do, qualify all vendors of any particular product or category of products. Instead the law provides a procedure for each vendor to qualify their product as meeting the needs of state agencies.

To meet the concerns raised in the testimony Your Committee has amended the bill to provide that the administrator shall include in the Hawaii products list only those producers and manufacturers of soil enhancement products who have applied and been approved for a Hawaii products preference; and to delete the prohibition against the use of soil enhancement products from other localities than Hawaii, requiring instead that state agencies use soil enhancement products on the Hawaii products list.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2524, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2524, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.

Ayes, 3. Noes, none. Excused, 2 (Tanaka, Taniguchi).

SCRep. 1702 Transportation and Government Affairs on S.B. No. 2985

The purpose of this bill is to amend the law concerning the administrative revocation of driver's licenses to:

- (1) Allow temporary driving permits to be extended even if no hearing is requested within the five-day period allowed;
- (2) Allow the court to remand cases back to the administrator following judicial review;
- (3) Make license revocation periods mandatory; and
- (4) Exclude Saturdays from the computation of deadlines.

Your Committee received testimony from the Administrator of the Courts on behalf of the Judiciary in support of this bill, and testimony from the Hawaii Association of Criminal Defense Lawyers opposed to the bill in so far as it proposes to allow courts to remand cases back to the administrator. Opposition to remand is premised on the concern that this detracts from swift and economical resolution which is a primary reason for administrative revocation, and, in addition to the possibility of protracted proceedings. It would act as disincentive for the administrator to follow the proper procedures in the first hearing.

Your Committee has amended the bill to expressly provide that the court may not remand a case following judicial review; and to retain current language making periods of administrative revocation discretionary and including Saturdays in the computation of deadlines.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2985, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2985, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Solomon, Taniguchi).

SCRep. 1703 Tourism and Recreation on S.B. No. 2340

The purpose of this bill is to require hunting guides to be licensed by the department of land and natural resources, and to impose fees for such licenses and penalties for violation of such licensing requirements.

Your Committee finds that guided hunting expeditions can attract visitors from many different parts of the world, and Hawaii offers a unique environment, weather, and game that is equal to or better than many other locations which offer guided hunting services. Your Committee further finds that some type of government oversight of these expeditions is necessary, first, to ensure the visiting hunter's safety, and secondly, to provide some type of quality control regarding guide services. Your Committee further finds that these guided expeditions can be a source of additional revenues for the State through hunting license fees which can be used to improve hunter education in Hawaii.

Your Committee has amended this bill by:

- (1) Clarifying the requirements for the hunting guide license in statute, rather than providing for the requirements to be adopted by departmental rules;
- (2) Requiring hunting guides to submit annual reports on their hunting guide activities to the department; and
- (3) Allowing nonresident hunters who hunt on a private or commercial preserve for one day or less to pay fifty per cent of the current nonresident hunting license fee.

As affirmed by the record of votes of the members of your Committee on Tourism and Recreation that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2340, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2340, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Liu).

SCRep. 1704 Tourism and Recreation on S.B. No. 2344

The purpose of this bill is to legalize handgun hunting in Hawaii under licensed hunting activities.

Your Committee finds that forty-eight states allow the hunting of game with handguns within licensed hunting activities. Your Committee further finds that this law allowing the use of handguns for taking game under a licensed hunting activity is not intended to conflict with other laws prohibiting the illegal possession or concealed use of handguns under Hawaii's penal code.

As affirmed by the record of votes of the members of your Committee on Tourism and Recreation that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2344 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Liu).

SCRep. 1705 Tourism and Recreation on S.B. No. 2992

The purpose of this bill is to delete the penalty of imprisonment not to exceed thirty days in jail for parking violations in Aloha stadium.

Your Committee finds that many parking offenses have been decriminalized and reenacted as traffic infractions with monetary penalty provisions. Your Committee further finds that similar decriminalization should be applied to parking offenses within the Aloha stadium.

As affirmed by the record of votes of the members of your Committee on Tourism and Recreation that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2992 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Liu).

SCRep. 1706 (Joint) Education and Communications and Public Utilities on S.B. No. 3217

The purpose of this bill, as received by your Committees, is to earmark specific amounts to be appropriated from the special fund to provide all public schools with the necessary infrastructure to use modern data, voice, and video technology.

Your Committees find that the rapid development of various data, voice, and video technologies for use in the schools has outpaced the state resources being provided to install the infrastructure necessary for the public schools to use these technologies. Your Committees further find that these technologies are critical to bringing our public schools into the information age which is directing the learning environments in the classrooms and molding the learning processes of our students.

Your Committees agree that additional resources must be made available and thus have amended this measure to provide that notwithstanding section 37-53, Hawaii Revised Statutes, the earned interest income from this fund shall be indefinitely earmarked for the installation and purchase of technology infrastructure, products, and services until all public schools are equipped with such necessary infrastructure, products, and services.

As affirmed by the records of votes of the members of your Committees on Education and Communications and Public Utilities that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 3217, as amended herein, and recommend 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 the Chairmen on behalf of the Committees.
Ayes, 9. Noes, none. Excused, 2 (Bunda, Kanno).

SCRep. 1707 Transportation and Government Affairs on S.B. No. 2157

The purpose of this bill is to authorize the issuance of general obligation bonds in the sum of \$700,000 and to make an appropriation of the same sum for fiscal year 1996-1997, for the plans and design of a new police headquarters/civil defense emergency operating center for the county of Kauai.

Your Committee finds that the current Lihue facility was built in 1953 and served as a district court and police station. The building is unfortunately outdated, too small for current uses, and in need of serious repair. The holding cells are in a state of deterioration. There are no isolated restroom facilities and there is inadequate parking and severe traffic congestion around the building.

Kauai county estimates a \$7.5 million operating deficit this fiscal year. The state assistance provided by this measure is therefore greatly needed.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2157 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Taniguchi, Anderson).

SCRep. 1708 Transportation and Government Affairs on S.B. No. 2158

The purpose of this bill is to authorize the issuance of general obligation bonds in the sum of \$1,002,500, and to appropriate the same sum for fiscal year 1996-1997, for capital improvement projects in the county of Kauai relating to the damages and costs resulting from Hurricane Iniki.

Your Committee finds that the moneys provided by this measure will enable the county of Kauai to harden its emergency shelters on a matching fund basis with the federal government. These funds will also permit the county to rebuild and repair hurricane damaged public facilities which did not qualify for Federal Emergency Management Agency funding or lacked insurance coverage.

Your Committee strongly believes that this measure will help to rebuild the economy of Kauai, which has yet to recover from the devastating effects of Hurricane Iniki, and will help to ensure the future safety and welfare of Kauai residents.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2158 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Taniguchi, Anderson).

SCRep. 1709 Transportation and Government Affairs on S.B. No. 2159

The purpose of this bill is to authorize the issuance of general obligation bonds for various public projects for the County of Kauai.

These projects are as follows:

- (1) Kauai Civic Center, Phase III;
- (2) Hauaala Road drainage improvements;
- (3) Rice Street;

- (4) Waimea Sewer System;
- (5) Kekaha/Waimea swimming pool feasibility study;
- (6) Wailua-Kapaa sewer system;
- (7) Antone K. Vidinha multi-purpose complex;
- (8) Hanapepe Sports Complex; and
- (9) County drainage master plan.

The bond moneys are to be variously used for planning, design, land acquisition, and construction of these projects.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2159 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.

Ayes, 3. Noes, none. Excused, 2 (Taniguchi, Anderson).

SCRep. 1710 Transportation and Government Affairs on S.B. No. 2385

The purpose of this bill is to appropriate \$25,000 to match community contributions to begin the first phase of the Kaupakuea Homestead road improvement project.

This project is located in Kaupakuea, Island of Hawaii. Your Committee finds that this appropriation would benefit the welfare of the residents of that area.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2385 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.

Ayes, 3. Noes, none. Excused, 2 (Taniguchi, Anderson).

SCRep. 1711 Transportation and Government Affairs on S.B. No. 2613

The purpose of this bill is to appropriate the sum of \$34,200 for a grant-in-aid to the county of Hawaii for the start-up and maintenance costs at West Hawaii Veterans Cemetery.

Your Committee received supporting testimony from the Department of Parks and Recreation of the County of Hawaii, indicating that there are currently two veterans cemeteries in Hawaii county, both located in Hilo. Therefore, families in West Hawaii must cross the island to visit grave sites. This bill would establish a veterans cemetery in West Hawaii.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2613 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.

Ayes, 3. Noes, none. Excused, 2 (Taniguchi, Anderson).

SCRep. 1712 Transportation and Government Affairs on S.B. No. 2615

The purpose of this bill is to appropriate \$60,000,000 out of the general revenues of the State, to be expended by the county of Hawaii for capital improvement projects in the county of Hawaii.

Your Committee finds that the improvements are needed to improve the health and safety of the communities.

Your Committee notes that some of the projects are unfunded federal mandates, or are eligible for federal matching funds.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2615 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.

Ayes, 3. Noes, none. Excused, 2 (Taniguchi, Anderson).

SCRep. 1713 Transportation and Government Affairs on S.B. No. 2762

The purpose of this bill is to make an appropriation of \$100,000 to support the continuing development of the Pacific Disaster Center.

This project will use the Maui high performance computer center, and data from military, national, and international satellites, and other sensory systems to process and distribute emergency management information throughout the State

and all United States Pacific region emergency management agencies. The principal source of funding is from the United States Department of Defense which has already made \$5,000,000 available. Future funding will depend on the progress made. The purpose of the present appropriation is to hire a state coordinator, and to provide office space and administrative support for project staff.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee 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 the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Taniguchi, Anderson).

SCRep. 1714 Transportation and Government Affairs on S.B. No. 2824

The purpose of this bill is to amend the definition of "professional services" under chapter 103D, Hawaii Revised Statutes, the Public Procurement Code, to include "public finance underwriting or investment banking".

This is an administration bill which received supporting testimony from the Department of Accounting and General Services (DAGS) and the Department of Budget and Finance. The bill would streamline the procurement process for the issuance of bonds. It would allow the establishment of a list of qualified firms that could be selected to serve as underwriters. Currently, underwriters are selected through a request for proposal process. DAGS suggested that the definition be made more specific to the bonding industry.

Based on the testimony, your Committee has amended the bill to make the definition more specific to the bonding industry.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee 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 the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Taniguchi, Anderson).

SCRep. 1715 Transportation and Government Affairs on S.B. No. 2897

The purpose of this bill is to provide that, with the exception of violations occurring in an operational area of an airport, parking and equipment violations at a public airport shall be treated as traffic violations under chapter 291D, Hawaii Revised Statutes. Violations occurring in the operational area of an airport remain offenses under the Penal Code subject to a maximum fine of \$500.

The Department of Transportation and the Administrative Director of the Courts submitted testimony in favor of the bill. Your Committee was informed that currently airport parking and equipment violations are treated as criminal offenses and cannot be handled in the civil traffic system, which would ordinarily be the case were the violation to occur elsewhere than at the airport. The bill decriminalizes such violations except when they occur in an airport operational area. Violations occurring there remain criminal offenses due to the greater safety hazard they pose to airport operations.

Your Committee has amended the bill to incorporate a definition of "operational area".

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2897, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2897, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Taniguchi, Anderson).

SCRep. 1716 Transportation and Government Affairs on S.B. No. 2913

The purpose of this bill is to require that contractors obtain a tax clearance as a prerequisite to entering into a public contract.

This administration bill requires the following for contracts of \$10,000 or more:

- (1) The contractor to obtain a state and federal tax clearance;
- (2) The state or county contracting officer to immediately assign all progress payments due to the contractor to the State or to the Internal Revenue Service if the contractor fails to timely file tax returns;
- (3) The state or county contracting officer to withhold payment in the final settlement of a contract until the receipt of tax clearances; and
- (4) An assignee of a contract, as a condition precedent to the assignment, to first obtain a bulk sales certificate if required by law.

The State Department of Taxation submitted supporting testimony indicating that this bill would enhance tax compliance by requiring contractors to be in good standing before being eligible for awards of public contracts and to require them to remain so during the term of the contract.

Your Committee finds that the State's dismal fiscal condition necessitates that tax collections be maximized. This bill would facilitate achievement of that goal. Your Committee further finds that contractors who obtain public contracts should rightfully pay their share of taxes since they benefit directly from obtaining public contracts.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2913 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Taniguchi, Anderson).

SCRep. 1717 Transportation and Government Affairs on S.B. No. 3006

The purpose of this bill is to authorize the director of finance to issue general obligation bonds in the sum of \$900,000, to be expended by the county of Kauai for the purpose of rubberizing the surface of the Vidinha stadium track in the county of Kauai.

Your Committee finds that the stadium track surface is in need of resurfacing for the safety of the track users.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3006 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Taniguchi, Anderson).

SCRep. 1718 Transportation and Government Affairs on S.B. No. 3007

The purpose of this bill is to appropriate funds to expand the availability of automatic external defibrillators (AED) throughout the State.

Specifically, the bill appropriates \$228,500 for the purchase of a total of twenty-nine AEDs for statewide dispersal and to fund a part-time medical director to service the City and County of Honolulu's AED program.

Your Committee recognizes that using AED technology is a valid and beneficial medical intervention that is important to an effective emergency medical services system. The American Heart Association strongly endorses the use of early defibrillation as the key intervention for increasing the survival chances of cardiac arrest patients.

In Act 279, Session Laws of Hawaii 1993, the Legislature required the Department of Health to establish a program to enable Honolulu Fire Department emergency service personnel to provide defibrillation to victims of cardiac arrest, and appropriated \$45,000 to purchase six AEDs at \$7,500 each. Since then, a total of thirty-one AEDs have been put in operation at thirty-one fire stations located throughout the island of Oahu.

Your Committee believes that expanding the early defibrillation program to the neighbor islands is necessary to enhance each counties' emergency medical services' life saving capabilities.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3007 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Taniguchi, Anderson).

SCRep. 1719 Transportation and Government Affairs on S.B. No. 210

The purpose of this bill is to authorize the issuance of \$500,000 in general obligation bonds to plan and construct the second phase of a drain intake structure in Kaaawa to alleviate flooding.

Your Committee finds that the project is necessary to control potential flood damage in the Kaaawa area.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 210 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Taniguchi, Anderson).

SCRep. 1720 Transportation and Government Affairs on S.B. No. 2686

The purpose of this bill is to establish a revolving fund to be known as the public works project assessment fund:

- (1) To help defray the costs in carrying out construction projects managed by the Department of Accounting and General Services (DAGS);
- (2) To manage funds representing accumulated sick and vacation leave credits and retirement benefits for non-general fund employees;
- (3) To collect and distribute other expenses associated with capital improvement, repairs, and maintenance; and
- (4) To manage payment of employee transportation requirements.

The bill further provides that the Comptroller shall make reasonable assessments on the projects managed by DAGS which shall be deposited into the revolving fund.

Favorable testimony by DAGS in support of the bill noted that current program operating funds do not cover costs for specific public works projects and benefits for non-general fund employees. These types of costs are presently provided through three revolving funds currently under DAGS control. The bill would combine these three accounts into the Public Works Project Assessment Fund. By establishing this revolving fund and authorizing the Comptroller to assess projects and distribute funds, DAGS would be able to carry out its program of centralized engineering services. DAGS supports this administration bill since it provides a means to equitably charge projects for costs incurred by each project and to pool resources for non-recurring costs incurred in carrying out the construction program. The Legislative Auditor analyzed the proposed fund and informed your Committee that capital improvement projects would benefit from DAGS' services and the proposed fund would be self-sustaining.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2686 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Taniguchi, Anderson).

SCRep. 1721 Transportation and Government Affairs on S.B. No. 2898

The purpose of this bill is to conform the State's commercial driver's licensing requirements with the mandates of federal law.

This administration bill redefines "out-of-service order" as a declaration by an authorized enforcement officer that a driver, a commercial motor vehicle, or a motor carrier operation is out-of-service pursuant to applicable federal law. The bill also prohibits an employer from allowing, permitting, or authorizing an individual to drive a commercial vehicle during any time when the employee, the vehicle, or the motor carrier operation is subject to an out-of-service order and subjects any employer violating this provision to a fine of not less than \$2,500 nor more than \$10,000.

According to supporting testimony of the State Department of Transportation, state law must reflect federal requirements or risk losing federal highway funds of approximately \$5 million in the first year and \$10 million a year thereafter.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2898 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Taniguchi, Anderson).

SCRep. 1722 Hawaiian Affairs on S.B. No. 2327

The purpose of this bill is to denote the five special funds of the Department of Hawaiian Home Lands (DHHL) as trust funds.

According to supporting testimony of the DHHL, state law (section 37-62, Hawaii Revised Statutes) characterizes "special funds" as funds dedicated or set aside by law for a special purpose. However, the funds of the DHHL are more correctly "trust funds" which are statutorily characterized in that same section as funds in which designated persons or classes of persons have a vested beneficial interest, or which were created or established by a gift, grant, contribution, devise, or bequest that limits the use of the funds to designated objects and purposes. These funds were created by the Hawaiian Homes Commission Act of 1920, which intended that these funds be used for the benefit of native Hawaiians. Therefore, this bill would be consistent with that Act.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2327 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Kawamoto).

SCRep. 1723 Hawaiian Affairs on S.B. No. 2614

The purpose of this bill is to allow the Department of Hawaiian Home Lands (DHHL) to hire its own attorneys.

Your Committee finds that the DHHL often has cases wherein conflicts arise between the DHHL and the State, which necessitates the DHHL to have its own attorneys. This bill would facilitate the solution to that problem, so that the DHHL may adequately discharge its trust obligations.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2614 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Kawamoto).

SCRep. 1724 Hawaiian Affairs on S.B. No. 2627

The purpose of this bill is to clarify the proper disposition of properties acquired by the Office of Hawaiian Affairs (OHA).

This bill requires that properties acquired by OHA be controlled and managed for the purposes of chapter 10, Hawaii Revised Statutes, relating to OHA, and subject to applicable constitutional requirements relating to trust lands.

Your Committee finds that this bill would assure that OHA performs its trust obligation with integrity in the management of those properties to the betterment of the Hawaiians and native Hawaiians whom OHA is statutorily intended to benefit.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2627 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, none.

SCRep. 1725 (Majority) Hawaiian Affairs on S.B. No. 2628

The purpose of this bill is to require that one member of the Board of Land and Natural Resources (BLNR) represent the Office of Hawaiian Affairs (OHA).

Under current law, OHA has no representation on the BLNR. This bill would require that there be one representative to be appointed by the Governor on the advice and consent of the senate, as with the other BLNR members. To accomplish this without enlarging the BLNR, the provision for two at-large members is reduced to one.

Your Committee received supporting testimony indicating that representation of OHA on the BLNR is good policy because they have similar interests as far as land is concerned, and oftentimes the BLNR has acted contrary to the concerns of OHA. With BLNR representation for OHA, perhaps these conflicts can be resolved or at least considered before BLNR decisions are made.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2628 and recommends that it pass Second Reading and be referred to the Committee on Planning, Land and Water Use Management.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, 1 (Levin). Excused, none.

SCRep. 1726 Hawaiian Affairs on S.B. No. 2711

The purpose of this bill is to increase the limit of the State's liability on moneys borrowed by the Department of Hawaiian Home Lands (DHHL) or on departmental guarantees of repayment of loans made to lessees.

The Hawaiian Homes Commission Act of 1920 (section 214) allows the DHHL to borrow moneys from government agencies or private lending institutions or to guarantee mortgage loans made to lessees by private lending institutions, and provides that the State's liability for those borrowed moneys and loans shall not exceed a specified amount. This administration bill would increase that amount of that liability from \$21,000,000 to \$50,000,000.

This bill would allow the DHHL to borrow more moneys or to guarantee more loans obtained from private lending institutions for home mortgages. This has the effect of increasing the number of homes that can be built on DHHL property and of allowing for more infrastructure development with moneys borrowed directly by the DHHL.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2711 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Kawamoto).

SCRep. 1727 (Joint) Hawaiian Affairs and Ways and Means on S.B. No. 2867

The purpose of this short form bill is to clarify matters concerning the public land trust revenues payable to the Office of Hawaiian Affairs (OHA).

The bill has been amended to insert language recommended by the Attorney General as necessary to provide clearer direction and specificity in operationalizing the constitutional requirements of the native Hawaiian public land trust. Specifically, the inserted language:

- (1) Clarifies that only revenues actually generated by and received from the ceded lands themselves are subject to the twenty percent share requirement;
- (2) Expressly excludes interest income earned by revenues prior to a quarterly payment to OHA;
- (3) Adds to the list of examples already in the definition of "revenue" to sharpen the distinction between revenues derived from proprietary activities on ceded lands which are payable to OHA and revenues derived from the exercise of sovereign functions and powers which are not payable;
- (4) Clarifies that "revenue" is less the costs of improvements because the twenty percent payment to OHA should reflect the pro-rata share of the economic return to the lands and should not be calculated against the revenue stream allocable to improvements made to trust lands; and
- (5) Instructs the comptroller to establish uniform procedures and methods to ensure that revenues payable to OHA are timely and accurately paid and accounted for.

As affirmed by the records of votes of the members of your Committees on Hawaiian Affairs and Ways and Means that are attached to this report, your Committees are in accord with the action to report out S.B. No. 2867, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2867, S.D. 1, and be recommitted to the Committees on Hawaiian Affairs and Ways and Means for further consideration.

Signed by the Chairmen on behalf of the Committees.
Ayes, 9. Noes, none. Excused, 6 (Levin, Bunda, Fernandes Salling, Fukunaga, Solomon, Tanaka).

SCRep. 1728 Hawaiian Affairs on S.B. No. 2665

The purpose of this bill is to require that the agenda for meetings of the Board of Trustees (BOARD) of the Office of Hawaiian Affairs be prepared by the chairperson and that the agenda include all items submitted for discussion by any member of the BOARD.

Current law does not provide for agenda items for meetings of the BOARD. Customarily, this matter is left to the discretion of the chairperson or the president (in the corporate equivalent). However, your Committee received supporting testimony indicating that present practices of the BOARD often exclude items of interest to some BOARD members. The result has been that the agenda often includes only items for which the chairperson believes there is majority support, thereby excluding democratic debate on other issues. This has resulted in rancor and litigation amongst members of the BOARD. While your Committee is reluctant to engage in micro management of the BOARD's business, your Committee deems this matter to be of sufficient importance because of the trust nature of the BOARD's business to warrant this bill.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2665 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Kawamoto).

SCRep. 1729 Health on S.B. No. 2280

The purpose of this bill is to prohibit the sale of cigarettes by mobile food vendors.

Your Committee finds there is a need to prohibit the sale of cigarettes from mobile food vendors to limit the accessibility of tobacco products to minors. Your Committee further finds that the expansion of the meaning of the term "sale" to include possession or display with intent to sell would assist in the enforcement of the prohibition.

Your Committee amended this bill by incorporating the new definition of "sale" recommended by the director of health, and by making technical, nonsubstantive changes for the purpose of conforming with recommended drafting procedures.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2280, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2280, S.D. 1, and be referred to the Committee on Consumer Protection.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, none.

SCRep. 1730 Education on S.B. No. 2022

The purpose of this bill is to appropriate funds to the department of education to expand the Hawaiian language immersion program, papahana kaiapuni Hawaii, in the public school system, and to establish a task force to study the establishment of a single papahana kaiapuni Hawaii campus system.

Your Committee finds that the demand for the Hawaiian language immersion program is expanding statewide, and that the papahana kaiapuni Hawaii presently exists within each school district. Your Committee further finds that the office of Hawaiian affairs has filed a law suit against the State to require the department of education to provide public school education in the Hawaiian language to any student requesting such education. While your Committee recognizes the role of the office of Hawaiian affairs as an advocate for native Hawaiians, your Committee also is aware that there are limited resources within the department of education within which to meet the increasing demand for the Hawaiian language immersion programs. Your Committee urges the office of Hawaiian affairs to earmark any available funds within the public trust and work collaboratively with the department of education to assist in providing the necessary staff, facilities, and other resources to expand the papahana kaiapuni Hawaii throughout the State.

Thus, your Committee has amended this measure by:

- (1) Appropriating funds to the department of education for the expansion of papahana kaiapuni Hawaii only to Niihau school and Niihau children at Kekaha school;
- (2) Deleting the task force to study the establishment of a single papahana kaiapuni Hawaii campus system; and
- (3) Making technical, nonsubstantive changes for the purpose of clarity and style.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2022, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2022, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 1 (Bunda).

SCRep. 1731 Transportation and Government Affairs on S.B. No. 3070

The purpose of this bill is to appropriate funds for the construction of a retaining wall along Farrington Highway in Waipahu.

Your Committee finds that the construction of the retaining wall would stop the erosion of soil from elevated properties along the highway, and prevent mud and debris from washing out along the highway during rain storms.

Your Committee has amended the bill by making the appropriation from the highway special fund or the highway revenue bond fund.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3070, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3070, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.

Ayes, 3. Noes, none. Excused, 2 (Taniguchi, Anderson).

SCRep. 1732 Transportation and Government Affairs on S.B. No. 3071

The purpose of this bill is to make an appropriation for the construction of a sidewalk along Farrington highway, between Paiwa and Pupupuhi streets in Waipahu, which would contribute to the safety of students walking to and from school.

Your Committee received testimony in support of this bill from area residents, the Department of Transportation, Honolulu City Councilmember Rene Mansho, and "Andy" Anderson on behalf of the Waipahu 2000 Up-Date Committee. Testimony provided your Committee indicated the need for a sidewalk both for pedestrian safety and to revitalize the area.

Your Committee has amended the bill to authorize the appropriation to be made from the highway special fund or the highway revenue bond fund.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3071, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3071, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.

Ayes, 3. Noes, none. Excused, 2 (Taniguchi, Anderson).

SCRep. 1733 Transportation and Government Affairs on S.B. No. 3120

The purpose of this bill is to provide certain road improvements to Fort Weaver Road on Oahu.

Specifically, the bill appropriates \$240,000 to construct a paved shoulder, inlet structures, and install a culvert to connect to the existing drainage system at the intersection of Fort Weaver Road and Renton Road on Oahu.

Your Committee has amended the bill by changing the funding from general fund appropriation to a highway special fund or highway revenue bond fund appropriation.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3120, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3120, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Taniguchi, Anderson).

SCRep. 1734 Transportation and Government Affairs on S.B. No. 3152

The purpose of this bill is to appropriate the sum of \$350,000 out of the general revenues of the State, to be expended by the department of transportation for the purpose of road improvements on Hauaala road and Kawaihau road in Kapaa, Kauai.

Your Committee finds that the proposed road improvements would benefit the residents of the county of Kauai.

Your Committee has amended the bill to provide that the appropriation shall be made from the highway special fund or the highway revenue bond fund.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3152, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3152, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Taniguchi, Anderson).

SCRep. 1735 Transportation and Government Affairs on S.B. No. 3179

The purpose of this bill is to appropriate unspecified funds to install traffic lights at the intersection of Maliona Street and Farrington Highway.

The State Department of Transportation submitted supporting testimony and indicated that the estimated cost of design to be \$50,000 and of construction to be \$350,000.

Your Committee has amended this bill to fund the improvements through the highway special fund or the highway revenue bond fund.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3179, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3179, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Taniguchi, Anderson).

SCRep. 1736 Transportation and Government Affairs on S.B. No. 3230

The purpose of this bill is to appropriate unspecified funds for traffic improvements on Likelike Highway from Valley View Drive to the H-1 Freeway.

Your Committee finds that this appropriation would benefit the residents of that area.

Your Committee has amended this bill to fund the improvements through the highway special fund or the highway revenue bond fund.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3230, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3230, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Taniguchi, Anderson).

SCRep. 1737 Transportation and Government Affairs on S.B. No. 2452

The purpose of this bill is to appropriate \$260,000 for fiscal year 1996-1997 for the design and construction of a 2000-foot dual left turn lane on Waiehu Beach Road extending to Kuhio Place and Kealii Drive in Wailuku, Maui.

Your Committee finds that the number of traffic accidents on Waiehu Beach Road has increased significantly in the last three to five years, with the completion of several housing developments in Paukukalo, Waiehu Terrace, Waiehu Heights, and Waiehu Kou.

Your Committee believes that the construction of a left turn lane on Waiehu Beach Road is urgently needed and will benefit the health and welfare of the surrounding communities immeasurably.

Your Committee has amended the bill to provide that funding will be through appropriations from the highway special fund or the highway revenue bond fund.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2452, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2452, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Taniguchi, Anderson).

SCRep. 1738 Ecology and Environmental Protection on S.B. No. 2056

The purpose of this bill is to authorize the establishment and operation of air quality monitoring stations in areas zoned for industrial uses to monitor fugitive emissions as the result of system failure or equipment breakdown.

Your committee supports the intent of the bill and has amended the bill to include establishment and operation of air quality monitoring stations in areas used for geothermal projects to monitor fugitive emissions from geothermal sources.

As affirmed by the record of votes of the members of your Committee on Ecology and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2056, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2056, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Ikeda).

SCRep. 1739 Ecology and Environmental Protection on S.B. No. 2287

The purpose of this bill is to establish an Endangered Species Hunting Stamp program.

The bill would require hunting permits issued under Chapter 183D, Hawaii Revised Statutes, to be validated with an Endangered Species Hunting Stamp. The Endangered Species Hunting Stamp's face would be determined through an art contest conducted each year by the Board of Land and Natural Resources and would be funded via entry fees and other contributions.

Your Committee finds that such a program is a worthwhile pursuit in that it will generate popular awareness, appreciation, and education on the State's numerous endangered species.

The Department of Land and Natural Resources (Department), however, noted some concern over the bill as drafted. The Department testified that as written, the bill would overlap with its ongoing Wildlife Stamp Program. Your Committee, therefore, has amended the bill to allow the Department to utilize the Endangered Species Stamp program for a variety of validation purposes and to authorize the Department to place all proceeds derived from the Endangered Species Program into the Wildlife Revolving Fund.

As affirmed by the record of votes of the members of your Committee on Ecology and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2287, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2287, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Aki, Ikeda).

SCRep. 1740 Ecology and Environmental Protection on S.B. No. 2776

The purpose of this bill is to:

- (1) Amend the environmental health program enhancement and education fund by repealing the requirement that not more than \$90,000 of the fund may be used during any fiscal year for fund administration including the hiring of two full-time personnel and the purchase of office and electronic equipment.
- (2) Amend Act 169, Session Laws of Hawaii 1994, which established the environmental health program enhancement and education fund, by repealing the sunset date of July 1, 1996.

Your Committee finds that the continuance of the fund gives the department of health the financial resources to continue to educate the industries it regulates, the public, and its staff.

Your Committee believes the department can more efficiently address the changing needs of its organization through its budget process rather than adhering to the limitations of the repealed provision.

Your Committee has made nonsubstantive, technical amendments for clarity.

As affirmed by the record of votes of the members of your Committee on Ecology and Environmental Protection that is attached to this report, your Committee 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 referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Ikeda).

SCRep. 1741 Ecology and Environmental Protection on S.B. No. 2794

The purpose of this bill is to authorize the director of health to create by rule, an exemption for holders of security interests in underground storage tanks, tank systems, and facilities or properties on which such tanks or tank systems are located, from liability under the underground storage tank laws; and to clarify that a "provider of financial assurance" in the underground storage tank laws means a person who provides financial assurance and not evidence of financial responsibility.

Your Committee finds that there is a need to encourage financial institutions to continue to finance businesses and individuals who have as part of their operations, underground storage tanks, tank systems, or facilities or properties on which such tanks or tank systems are located, by creating an exemption from liability under the underground storage tank laws.

Your Committee adopted the recommendation of the director of health and amended this bill by repealing the definition of "owner" in Section 342L-50, Hawaii Revised Statutes, and further amended this bill by clarifying that the rules are to be adopted under the Administrative Procedure Act.

As affirmed by the record of votes of the members of your Committee on Ecology and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2794, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2794, S.D. 1, and be referred to the Committee on Consumer Protection.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Chumbley, Ikeda).

SCRep. 1742 Ecology and Environmental Protection on S.B. No. 3129

The purpose of this bill is to provide funding to businesses to repair, replace, remediate, or close underground storage tanks or tank systems.

Specifically, the bill authorizes the transfer of funds between the Hawaii Capital Loan Revolving (HCLR) Fund and the Leaking Underground Storage Tank (LUST) Fund for the purpose of providing loans to businesses to ensure that underground storage tanks are properly maintained.

Your Committee finds that Act 267, Session Laws of Hawaii 1991 (Act 267), assessed a \$250 fee per tank from underground storage tank owners and operators. The revenues were collected by the Department of Health and deposited in the HCLR Fund for the purpose of providing loans to qualified applicants to replace, upgrade, close, take remedial actions relating to, and clean up releases from underground storage tanks in order to meet federal requirements. The assessment was repealed on January 1, 1994, with only one loan being made from the HCLR Fund for \$140,000, leaving approximately \$1.6 million remaining in the fund.

Your Committee believes that authorizing the transfer of moneys between the two funds provides the Department of Health with additional resources to assist underground storage tank owners and operators while still keeping with the original intent of Act 267. Your Committee agrees with the testimony of BHP Hawaii, Inc., that the Department of Health should be allowed to use the funds for its underground storage tank program and rules implementation.

Your Committee has amended the bill by clarifying that the Department of Health may use the funds in the LUST Fund for education, outreach, program development, rule promulgation, and response activities and by making technical amendments for the purpose of conforming with recommended drafting procedures.

As affirmed by the record of votes of the members of your Committee on Ecology and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3129, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3129, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Aki, Ikeda).

SCRep. 1743 Ecology and Environmental Protection on S.B. No. 3184

The purpose of this bill is to make an appropriation for state matching funds for an Army Corps of Engineers project to develop a wild life sanctuary for endangered Hawaiian water birds in the Kawai Nui marsh.

Your Committee amended this bill by making technical, nonsubstantive amendments for purposes of style and inserted a citation for purposes of clarification.

As affirmed by the record of votes of the members of your Committee on Ecology and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3184, as amended herein,

and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3184, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Aki, Ikeda).

SCRep. 1744 Ecology and Environmental Protection on S.B. No. 3187

The purpose of this bill is to prohibit the use of herbicides in public parks.

Your Committee finds that there is growing evidence that the use of herbicides may be harmful to human health, and there is growing concern about the contribution of herbicide use to nonpoint source pollution and soil erosion. Your Committee was persuaded by the testimony of the director of parks and recreation for the city and county of Honolulu and recognized her concerns regarding adverse impacts to park maintenance for the counties.

Your Committee amended this bill by:

- (1) Deleting mandatory county compliance with the prohibition against herbicide use in public parks;
- (2) Delaying the effective date for the prohibition against state use of herbicides in public parks to July 1, 2001;
- (3) Requiring that the department of land and natural resources develop and implement a plan for the phased reduction of herbicide use to comply with the scheduled prohibition;
- (4) Requiring the department of land and natural resources to encourage and assist the counties in joining and complying with the scheduled prohibition; and
- (5) Making a technical, nonsubstantive correction for purposes of grammar.

As affirmed by the record of votes of the members of your Committee on Ecology and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3187, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3187, S.D. 1, and be referred to the Committee on Tourism and Recreation.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Ikeda).

SCRep. 1745 Hawaiian Affairs on S.B. No. 2242

The purpose of this bill is to reduce from two-thirds to a majority the votes necessary for the Board of Trustees of the Office of Hawaiian Affairs (Board) to remove the administrator and to require approval of the Board for the administrator to employ and retain officers and employees.

Current law provides for a two-thirds vote of the members of the Board to remove an administrator. This bill would reduce that to a simple majority. Your Committee finds that a majority vote is in keeping with usual and customary practices in parliamentary and corporate realms and is consistent with the statutory quorum requirements for the Board to conduct business (section 10-8, Hawaii Revised Statutes).

Your Committee believes that a two-thirds requirement would entice the administrator to avoid carrying out the directives of the board, because the majority of the nine members would be five but yet six would be required to remove the administrator. As a consequence, there is created the anomalous situation that the administrator could maintain the support of only four trustees to keep the job while it would take five of them to direct the administrator. Therefore, even if five of them were dissatisfied with the performance of the administrator, they could not remove that person because it would take six votes to do so. Your Committee further finds that a majority vote to remove the administrator would provide for more order and efficiency in the conduct of the Board's business.

Your Committee has amended this bill by deleting section 2, relating to Board approval for hiring officers, and by adding that the Board may adopt bylaws to govern the number of votes necessary to remove the administrator. Any bylaws so adopted would supersede the statutory vote requirement and would give the Board the necessary flexibility to change the vote requirement as the situation warrants rather than returning to the legislature each time for a statutory amendment.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2242 as amended herein, and recommends that it pass Second Reading in form attached hereto as S.B. No. 2242, S.D. 1, and be referred to the Committee on Agriculture, Labor, and Employment.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, none.

SCRep. 1746 Hawaiian Affairs on S.B. No. 2421

The purpose of this bill is to allow the Department of Hawaiian Home Lands (DHHL) to negotiate the lease of Hawaiian home lands through public auction.

Under present law, the DHHL is restricted to utilizing the sealed bid process in the leasing of Hawaiian home lands. That process invites bidders to file applications pursuant to public notice of the auction. Those who qualify under established criteria are entitled to negotiate with the DHHL. If more than one qualify, the highest offer is selected for negotiation.

This bill would expand that bid process to add an open bid process (auction), so that the DHHL could use either method. Both processes are identical to those utilized by the Department of Land and Natural Resources. The present closed bid process has been found to result in native Hawaiians paying more rent for leases than non-native Hawaiians. Yet, the Hawaiian Homes Commission Act of 1920 requires that native Hawaiians be accorded preference in the awarding of general leases. The reason is that the closed bid process precludes a bidder from knowing the price of competing bids, thereby causing higher bids because a bidder is guessing at the limits of the other bids. This situation is inherent in the closed bid process. This bill would remedy this unintended consequence.

Your Committee received supporting testimony from the DHHL.

Your Committee has amended this bill to clarify the statutory citations as to the procedural requirements for notice and appraisals, on recommendation of the supporting testimony of the Department of Land and Natural Resources.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2421, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2421, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Kawamoto).

SCRep. 1747 Hawaiian Affairs on S.B. No. 2666

The purpose of this bill is to establish the Hui 'Imi Pono Advisory Council (Council) to advise the State on various issues relating to Hawaiians.

This bill provides that the Council:

- (1) Be placed within the Office of State Planning for administrative purposes;
- (2) Have specified initial member organizations, which shall appoint their own representatives to the Council;
- (3) Advise the governor, the legislature, and public and private agencies serving Hawaiians on issues described in the Hui 'Imi Task Force Report, Volumes I and II and recommend priorities for implementation;
- (4) Serve as liaison between public and private entities serving the Hawaiian community; and
- (5) Submit an annual report to the governor and the legislature.

The Hui 'Imi Task Force (originally The Task Force for Hawaiian Services) was created by Senate Concurrent Resolution No. 106, 1989, to examine the provision of services to Hawaiians. Its defined purpose was to make findings and recommendations concerning the coordination of all public and private services available to Hawaiians in the areas of education, economic development, housing, employment, medical and health, legal, and cultural and social services. That study resulted in a two-volume report entitled, "The Hui 'Imi Task Force for Hawaiian Services", Volume I and Volume II.

Your Committee finds that those reports contain valuable information and serve as a paradigm of a unique and extraordinary level of cooperation and coordination among task force member organizations, which included government representatives, their agencies, and members of the Hawaiian community. Your Committee believes that the efforts of the task force should be perpetuated. This bill would facilitate achieving that objective.

Your Committee also believes that this bill would serve to provide a legislative mechanism to review, monitor, evaluate, and advise on the progress of achieving the objectives outlined in the task force reports. An ancillary and perhaps symbolic benefit is that the Council is representative of the concept of public-private partnership, which has the potential of initiating new and collaborative approaches to examining social problems. Therefore, this bill has ramifications beyond Hawaiian issues by serving as an organizational model in general.

Your Committee has amended this bill by:

- (1) Changing, from 1994 to 1995, the legislative sessions referred to for the appropriations for Hui 'Imi;
- (2) Changing the agency in which the Council is to be placed for administrative purposes from the Office of State Planning to the Department of Accounting and General Services; and
- (3) Adding that there be three representatives on the Council who are service recipients.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of 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 Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Kawamoto).

SCRep. 1748 Judiciary on S.B. No. 2709

The purpose of this bill is restore the pre-1989 and pre-1991 district boundaries of the four affected districts of the State's former twenty-eight districts.

Hawaii has traditionally been divided into twenty-eight districts for election, taxation, education, city, county, and all other purposes and these districts have provided a useful basis for many administrative, planning, judicial, and statistical purposes. For example, the district boundaries have been used over time for the collection of data, facilitating the comparison of data on a number of topics over a period of time. Boundaries of the districts are generally coterminous with those of the tax map key system, thus permitting the linking of statistics on land use, ownership, and value to various other series. The same districts have been the basis for public census tabulations going back to the missionary census of 1831-1832. Consistent time series on many related matters have thus been readily available.

In 1989 and 1991 the function of these districts as "judicial districts" was changed to accommodate complaints from area residents who objected to their placements in judicial districts which required longer commutes to their respective court houses. In 1989 the legislature detached Waikakalaua, Waipio Acres, and Mililani Town from the Ewa District and transferred them to the Wahiawa District. In 1991, the legislature shifted Sunset Beach from the Koolauloa District to the Waiialua District. The side-effects of these transfers meant that the district boundaries no longer follow the boundaries of the tax map key system, the census county division lines of the 1990 and previous censuses, and other related topics.

Testimony from the Department of Business, Economic Development, and Tourism suggested amendments to this bill to clarify district boundaries and clearly indicate which boundaries on Oahu exist for judicial purposes and which boundaries exist for all other purposes.

Therefore your Committee had amended this bill by specifying that the (existing) seven districts on Oahu are for judicial purposes and adding new language for Oahu to describe the seven districts for all other purposes, using language which existed before 1989 for the Ewa and Wahiawa Districts, and before 1991 for the Koolauloa and Waiialua Districts.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2709, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2709, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Chumbley, Anderson).

SCRep. 1749 Judiciary on S.B. No. 2821

The purpose of this bill is to economize the operations of the unclaimed property program.

Specifically, this bill:

- (1) Creates a staggered escheat schedule for unclaimed property held in custody by the State;
- (2) Consolidates the publishing requirements relating to public notices; and
- (3) Lengthens the time period within which the director of finance must respond to a claim.

The present law requires the State to receive and maintain custody over unclaimed property forever. Unclaimed property usually refers to money or stock unclaimed by its rightful owner for usually five years or more.

Your Committee has amended this bill by clarifying the legislative intent to consolidate public notices and by broadening the monetary range of property subject to public notice prior to escheat to include property worth between \$100 and \$999. Your Committee has further amended this bill by correcting sections 4 and 8 to have them accurately reflect the actual and existing statutory language being amended.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2821, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2821, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Chumbley, Anderson).

SCRep. 1750 Judiciary on S.B. No. 2881

The purpose of this bill is to appropriate \$1,236,701 for deposit into the criminal injuries compensation fund to compensate victims of crime and their service providers.

Your Committee finds that, pursuant to chapter 351, Hawaii Revised Statutes, the criminal injuries compensation commission is charged with determining the appropriate compensation for victims of crime, who include: actual victims of certain offenses; persons who have suffered loss or incurred hospital, medical, funeral, or burial expenses as a result of

a victim's injury or death; dependents of a deceased victim; and persons who suffer personal injury or property damage in the course of preventing a crime.

Your Committee believes that this support for victims of crime is a necessary and just measure that makes somewhat more bearable the physical, psychological, or emotional injuries suffered by victims of crime and their dependents.

Your Committee further finds that the appropriations in this bill are necessary to fund the awards made by the commission between July 1, 1994 and June 30, 1995.

Your Committee has amended this bill by changing the appropriation to \$1,244,780, which is the correct figure submitted by the testimony from the Criminal Injuries Compensation Commission.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 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 the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Anderson).

SCRep. 1751 Judiciary on S.B. No. 2887

The purpose of this bill is to allow members of the nine-member correctional industries advisory committee to serve on the committee for a longer period of time.

This bill deletes the two-year term limit of membership in the correctional industries advisory committee. Of the three committee positions due for appointment on July 1, 1996, two members will be appointed for initial two-year terms but the third member will be appointed for a four-year term. Of the remaining six positions due for appointment on July 1, 1997, two members will be appointed for initial two-year terms, but two others will be appointed for three years, and the remaining two members will be appointed for four years. Upon the expiration of all of these positions, membership on the committee will be for four years.

Your Committee finds that correctional industries is a unique business operation and that members of the advisory board are restricted from contributing to their fullest because they are limited to serving at most two consecutive two-year terms. Your Committee believes that it is necessary to expand members' terms to four years. This bill allows the orderly transition from two-year to four-year terms for the correctional industries advisory committee.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2887 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Anderson).

SCRep. 1752 Judiciary on S.B. No. 2891

The purpose of this bill is to appropriate funds to implement programs to reduce prison and jail overcrowding.

Your Committee, at the outset, wishes to formally acknowledge the outstanding work of the Corrections Population Management Commission. That commission was established by Act 343, Session Laws of Hawaii 1993, which was codified as chapter 353F, Hawaii Revised Statutes, for the purpose of studying and recommending cost-effective methods to control the State's inmate population without jeopardizing public safety.

Your Committee finds that the commission has made significant contributions toward reducing the overcrowding of prisons in Hawaii. Despite the diversity of views of commission members, the commission nevertheless has been able to reach a consensus on this serious problem, thereby greatly contributing to the well-being of Hawaii's communities.

Your Committee further finds that successful prison population management is essential to finally resolving the consent decree mandated by *Spear v. Cayetano*. If the State is able to present a viable corrections population management plan to the federal court, the plaintiffs in that case may consider a finding of compliance and support vacating the consent decree, thus ending federal interference in the State's correctional system.

Last year, the Commission proposed a number of programs in its omnibus corrections population management plan, which were incorporated into Act 25, Special Session Laws of Hawaii 1995. These programs adopted a long-term, balanced, and coordinated strategy for reducing the inmate population in all prisons, including such programs as pretrial drug treatment services, integrated sanctions, community reintegration, and a residential work-furlough program. The net effect of this plan will be to reduce recidivism, increase community security, and resolve the consent decree by means of prison population reduction.

Your Committee finds that the successful implementation of these programs is critical to the success of prison population management. Your Committee finds, however, that the Legislature last year was unable to appropriate adequate resources to fund all of these programs. The intent of this Act is therefore to provide funding for the remaining programs for fiscal year 1996-1997.

Upon further consideration, your Committee has amended this bill by decreasing the appropriation made to the Judiciary for the implementation and operation of the integrated community sanctions program in section 2 of the bill from \$788,590 to \$635,919.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 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 the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Anderson).

SCRep. 1753 Judiciary on S.B. No. 2892

The purpose of this bill is to make an emergency appropriation of \$2,463,750 to the Department of Public Safety for fiscal year 1995-1996, for the care and transportation of three hundred Hawaii inmates who were transferred to Newton County, Texas to alleviate prison overcrowding.

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.

Your Committee finds that the State's correctional facilities are badly overcrowded, and that every facility is at or above its operating capacity. The Department of Public Safety has attempted to manage the size of its inmate population by granting furloughs to selected sentenced inmates and emergency releases to qualified pretrial detainees. Despite these population control measures, the number of inmates and, consequently, prison overcrowding, has continued to increase.

In October 1995, the State's inmate population exceeded maximum bed space capacity by more than five hundred individuals. As a result, the Department of Public Safety is vulnerable to lawsuits based on overcrowding at facilities other than Oahu Community Correctional Center and the Women's Community Correctional Center, which are already operating under a consent decree.

To alleviate prison overcrowding, the Department of Public Safety entered into an agreement with Newton County, Texas for the care of up to three hundred Hawaii inmates. Under this agreement, the Department of Public Safety will pay Newton County \$42 per inmate per day. Funding this agreement will cause various public safety programs to expend all their appropriated funds before the end of the 1995-1996 fiscal year. Without operating additional funds, the Department of Public Safety will not be able to meet its fiscal obligations to provide for the health and safety of the public, staff, and clients.

Your Committee received testimony in support of this bill from the Department of Public Safety.

Your Committee has amended this bill by:

- (1) Increasing the additional sum appropriated to the Department of Public Safety for fiscal year 1995-1996 from \$2,463,750 to \$2,523,210; and
- (2) Making a technical, nonsubstantive amendment for purposes of style.

According to the Department of Public Safety, the original figure of \$2,463,750 was based on an estimated rate of \$45 per inmate per day. At three hundred inmates and one hundred eighty-two and one-half days of care, this would have amounted to \$2,463,750. At the time this bill was being prepared, it was assumed that the \$45 per inmate per day figure would include the cost of transporting an inmate to Newton County, Texas. Since the introduction of this bill, the Department of Public Safety has entered into an agreement with Newton County to care for three hundred Hawaii inmates at a rate is \$42 per inmate per day, excluding transportation costs and some medical costs. At three hundred inmates and one hundred eighty-two days of care, this amounts to \$2,343,600. The cost of transporting three hundred inmates to Newton County is \$179,610. Consequently, the total cost for inmate care and transportation is \$2,523,210.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 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 referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Anderson).

SCRep. 1754 Judiciary on S.B. No. 2943

The purpose of this bill is to establish a land court equipment modernization special fund and a bureau of conveyances equipment modernization special fund, with \$2 from each document recordation fee to be deposited into each respective special fund.

The equipment modernization special fund would be used for equipment, software, and other improvements to the computerized recording system and improve access by all residents. There are currently three different systems in the Bureau of Conveyances which receive, index, and provide automated title access to the regular system and land court title system. Modernization of the computer system would expedite the recordation process and provide on-line information access to the public on all islands. Neighbor island residents especially can benefit from on-line access.

Testimony from the Chairperson of the Board of Land and Natural Resources suggested that this bill be amended to establish a single special fund instead of providing two separate funds. This would be more efficient so that funds collected under both the regular (chapter 502, Hawaii Revised Statutes) and the land court (chapter 501, Hawaii Revised Statutes) systems of land recording can be deposited into a single fund.

Your Committee has therefore amended this bill by deleting the land court equipment modernization special fund, thereby retaining only a single fund into which \$2 from each document recordation fee (whether from the land court or the regular system) would be deposited. The appropriation section was also amended by deleting the land court equipment modernization special fund appropriation and instead adding the \$200,000 appropriation to the appropriation for the single equipment modernization special fund, for a total of \$600,000. Remaining sections were renumbered appropriately.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 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 referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Chumbley, Anderson).

SCRep. 1755 Judiciary on S.B. No. 2969

The purpose of this bill is to authorize an additional circuit court judge for the Fifth Circuit serving the islands of Kauai and Niihau.

Your Committee finds that the nine per cent rise in Kauai's population since 1990, greater complexity of judicial issues, expansion of the rights of criminal defendants, the public's growing understanding of the judicial system, and an increase in Family Court cases have made the caseload too burdensome for a single judge. Increasing the number of circuit court judges in the Fifth Circuit will allow both circuit court and family court matters to be assigned to the circuit court judges and help relieve the workload. It is the intent of the Judiciary to assign the Circuit Court judges to preside over both circuit and family court matters. This will relieve the District Court Judges from all of the Family Court matters, thereby avoiding past problems where due to conflicts, the single circuit judge and the district judges have been unable to preside over certain matters and which required First Circuit judges from Oahu being assigned to handle Kauai cases.

In establishing the additional circuit court judgeship in the Fifth Circuit, the goals and objectives of the Judiciary in having more priority cases resolved expeditiously will be met and will minimize the need to hire per diem judges to hear district court matters.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2969 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Chumbley, Anderson).

SCRep. 1756 Judiciary on S.B. No. 2981

The purpose of this bill is to establish a trust fund to benefit the educational programs of the Judiciary History Center.

Your Committee finds that Act 211, Session Laws of Hawaii 1990, established the Judiciary History Center to educate visitors and local residents alike about Hawaii's judicial process. The program has succeeded in educating thousands of school children as well as adults about the laws, courts, and judicial history of the State. Due to recent funding restrictions, however, an innovative method of generating additional program revenues should be established. This bill creates an alternative funding mechanism for the program to ensure adequate operating revenues in the future.

Your Committee has amended this bill by:

- (1) Clarifying that the fund being established is a "trust fund" rather than a "private charitable trust fund";
- (2) Removing the dissolution of the Friends of the Judiciary History Center as a reason for the disbursement of all remaining moneys in the trust fund; and
- (3) By making various technical nonsubstantive amendments.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2981, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2981, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Anderson).

SCRep. 1757 Judiciary on S.B. No. 3042

The purpose of this bill is to create a three-year pilot project for child protective and diversion services guided by the recommendations and framework identified by the blueprint for change task force.

Your Committee finds that the project will include the following: a central intake service; one urban and one rural project site at which public and private child welfare services will be located to facilitate delivery of services; test mechanisms for sharing and allocating public and private resources; private and public funds and in-kind contributions to support implementation of the project; and an evaluation that allows comparison of outcomes and processes of the pilot program with the existing system.

Your Committee has amended this bill to create and maintain as much flexibility as possible regarding issues of funding and organization in order to maximize the effectiveness of the pilot project. Specifically, your Committee made the following changes:

- (1) Deleted the Judiciary as a participant in the staffing of the two neighborhood places;
- (2) Changed the reference in section 3 from "the Junior League of Honolulu" to "one community service organization";
- (3) Specified that the oversight committee has the ability to pay the project coordinator, shall work with the Department of Human Services to develop and implement systems - change training programs, and shall serve as a facilitator for dispute resolution;
- (3) Replaced the provision making the expenditure of public funds contingent on matching private contributions with language specifying that the Department of Human Services and other affected departments shall develop a memorandum of agreement to allow for the transfer of staff and funds, supplemented by contributions from the private sector, to implement the pilot project.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3042, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3042, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Chumbley, Anderson).

SCRep. 1758 Judiciary on S.B. No. 3116

The purpose of this bill is to appropriate funds to provide for the installation of seventy-five additional beds in the maximum security facility at Halawa Correctional Facility.

Your Committee finds that Hawaii's correctional system suffers from a problem of chronic inmate overcrowding. The shortage of bed space in Hawaii's correctional institutions resulted in a 1985 consent decree placing the system under a federal court order to expand the State's capacity to accommodate Hawaii's prison population. Funds for the installation of additional beds are needed immediately to comply with this requirement and meet the needs of maximum security inmates in the near future.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3116 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Anderson).

SCRep. 1759 Judiciary on S.B. No. 3117

The purpose of this bill is to appropriate \$150,000 to the Department of Public Safety for the planning of a new, three hundred fifty-bed medium security correctional facility on the island of Hawaii.

Your Committee finds that increasing the State's capacity to incarcerate criminals is an integral part of the complex strategy to make our citizens secure against violence and property loss, reduce prison overcrowding, and ensure the State's option to adequately punish those individuals who violate its laws. Your Committee also finds that the Department of Public Safety must have the resources to expand its inmate capacity and upgrade existing facilities, especially in light of the Spear v. Cayetano consent decree. Your Committee further finds that long-term systemwide population management planning is essential to reducing the likelihood of additional litigation and the threat of unnecessary federal court intervention in the State's correctional system.

Your Committee received testimony in support of this bill from the Department of the Attorney General, the City and County of Honolulu Departments of Human Resources and the Prosecuting Attorney, the Department of Public Safety, the Downtown Neighborhood Board, and the Community Coalition for Neighborhood Safety.

Your Committee has amended this bill by:

- (1) Increasing the size of the planned correctional facility from three hundred fifty beds to four hundred fifty beds; and
- (2) Making technical, nonsubstantive changes for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee 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 the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Anderson).

SCRep. 1760 Ecology and Environmental Protection on S.B. No. 2784

The purpose of this bill is to substitute the term "finding of no significant impact" for the term "negative declaration".

"Finding of no significant impact" retains the same definition as "negative declaration". It is defined as a determination based on an environmental assessment that the subject action will not have a significant effect and will not require the preparation of an environmental impact statement. Your Committee finds that the new term provides clarity and concurrence with the National Environmental Policy Act regarding the necessity of environmental impact statements.

As affirmed by the record of votes of the members of your Committee on Ecology and Environmental Protection that is attached to this report, your Committee 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 the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Aki, Ikeda).

SCRep. 1761 Judiciary on S.B. No. 2875

The purpose of this bill is to provide for absentee voting services in the event of a natural disaster and to give the Chief Election Officer the authority to require voters in a precinct, district, or county to vote by absentee ballot if the health and safety of persons are affected, or, in precincts with fewer than two hundred voters, for purposes of economics or efficiency.

The testimony from the Chief Election Officer described the difficulty of conducting an election after Hurricane Iniki hit Kauai, eight days before the 1992 primary election. Fortunately with the help of the County Clerk of Kauai and the Hawaii National Guard, the election was held as scheduled. However the disaster pointed out the non-existence of an absentee mail ballot law which would have allowed the delivery and return of ballots by mail. The Chief Election Officer also testified that voters have the right to vote in their polling places and asked that this bill be amended by deleting the provisions relating to mandatory absentee voting in precincts with fewer than two hundred voters.

Your Committee has therefore amended this bill by deleting language relating to mandatory absentee voting in precincts with fewer than two hundred voters and has also amended section 11-92.3(a) (relating to the consolidation of precincts in the event of a natural disaster) in order to give the Chief Election Officer the discretion to postpone elections up to twenty-one days instead of seven, to give the Chief Election Officer more time to assess the conditions in the precinct, district, or county after a natural disaster. The lengthier period will also give the Chief Election Officer adequate time to gather the necessary people, equipment, and so on before determining how to proceed with a scheduled election.

Your Committee has also renumbered sections 3 and 4 of the bill as sections 4 and 5, respectively, and made other technical, nonsubstantive amendments.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2875, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2875, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (McCartney, Anderson).

SCRep. 1762 Judiciary on S.B. No. 2884

The purpose of this bill is to enable the contract for renovations to the Olomana Cottage at the Women's Community Correctional Center to be awarded earlier and thus allow earlier occupancy.

This bill advances the construction cost element authorization date for the renovations from fiscal year 1996-1997 to fiscal year 1995-1996. Your Committee finds that the Department of Public Safety has been successful in completing construction plans and specifications so that if construction is accelerated, the Olomana Cottage may be open by the end of 1996 rather than 1997. Completed construction will provide sixty-four badly needed detention beds for adult females and will allow for the transfer of all adult females currently being held at the Oahu Community Correctional Center, making their vacated bed spaces available for male offenders. In addition, an earlier completion date will enable the Department to meet its obligations under the Spear v. Cayetano consent decree sooner.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2884 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Anderson).

SCRep. 1763 Judiciary on S.B. No. 2893

The purpose of this bill is to provide an emergency appropriation to expand the therapeutic drug treatment programs of Hawaii's correctional facilities.

Your Committee finds that drug treatment programs such as the KASHBOX program at the Waiawa Correctional Facility help inmates to deal effectively with their chemical dependency problems. Assessments on offenders found that an overwhelming proportion of inmates in Hawaii's prisons suffer from some form of chemical dependency. Without a program to address the problems of inmates while they are in the system, the potential for repeat offenses and further prison overcrowding is a distinct possibility. Programs such as the KASHBOX program help treat the substance abuse problems of inmates prior to their release, thereby protecting the community and reducing the size of Hawaii's prison population.

The funds appropriated for the expansion of KASHBOX Therapeutic Community Program shall be expended in the following manner. The sum of \$82,204 shall be expended for the hiring of personnel, including supervisory, counseling, and clerical personnel. The sum of \$3,308 shall be expended for other personal expenses including working condition differential costs and other personal services. The sum of \$28,000 shall be expended to meet the current expenses of the program including office supplies, reference materials and substance abuse testing kits. The sum of \$14,365 shall be expended to cover the costs of equipment, including computers, desks, chairs, and other office goods. The sum of \$178,600 shall be expended for improvements to the old administrative building including the acquisition of twenty-five beds and one tent to be used for program space.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2893 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Anderson).

SCRep. 1764 Judiciary on S.B. No. 2973

The purpose of this bill is to authorize the Hawaii Supreme Court to adopt rules setting a non-refundable filing fee and costs to be deposited in appeals to the small claims tax appeal court.

Currently, there is a filing fee of \$3 for small claims tax appeal court cases under section 232-5, Hawaii Revised Statutes, while section 232-22, Hawaii Revised Statutes, requires that costs to be deposited on appeals to that court shall be five per cent of the amount of taxes in dispute but not more than \$100 nor less than \$5 in any one case. This bill deletes these dollar and percentage amounts and allows the state Supreme Court to set the amounts by rule. Your Committee finds that this bill allows for greater flexibility in the setting of fees and costs with respect to the small claims tax appeal court.

Upon further consideration, your Committee has amended this bill by deleting the word "non-refundable" in section 2 of the bill, amending section 232-22, Hawaii Revised Statutes (page 2, line 4). Your Committee finds that the costs to be deposited on appeal to the tax appeal court should continue to be returned to the taxpayer in the event that an appeal or objection is sustained in whole, as currently provided under section 232-23(b), Hawaii Revised Statutes. Your Committee, however, has retained the word "non-refundable" with respect to filing fees under section 232-5, Hawaii Revised Statutes. Your Committee has also made a few technical, nonsubstantive amendments for purposes of style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2973, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2973, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Chumbley, Anderson).

SCRep. 1765 Judiciary on S.B. No. 2979

The purpose of this bill is to appropriate funds so the district courts have the ability to hold video arraignments and conference hearings in the second, third, and fifth circuits.

The funds appropriated will be offset by the Edward Byrne Memorial State and Local Law Enforcement Assistance Formula Grant Program, a federal grant program. This video program will pool the resources of several agencies and maximize the efficiency in government. Establishing telecommunications links between the district courts and the holding facilities will facilitate arraignments and conference hearings by not requiring the transportation of defendants in-custody.

Your Committee has amended this bill by specifying the amounts that shall be expended in each fiscal year for a specific circuit of the district court. Your Committee finds that the first circuit should have priority for installation of equipment, with the other circuits to follow in subsequent years.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2979, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2979, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (McCartney, Anderson).

SCRep. 1766 Judiciary on S.B. No. 2982

The purpose of this bill is to allow the Administrative Director of the Courts to assess and collect fees for the costs of processing an arrestee's request for an administrative hearing.

Your Committee finds that the expenses involved in requesting an administrative hearing are borne by the Judiciary and constitute a substantial portion of the administrative revocation of driver's license office's budget. In particular, substantial amounts are paid for police officer mileage fees, certified interpreter fees, and photocopying of documents in case files. Given this time of fiscal restraint and dwindling budgets, your Committee believes it is appropriate to require the moving party, or arrestee, and not the taxpayer, to bear the cost of the action. Your Committee finds that, as administrative revocation of driver's license proceedings are civil in nature and initiated at the discretion of the arrestee, it is entirely consistent with customary civil legal practice that such costs be imposed upon the arrestee. Your Committee also notes that imposition of costs may diminish wholesale or frivolous requests for documents and services that are now provided free of charge to arrestees.

Your Committee has amended this bill by:

- (1) Imposing a fee of \$15 upon any arrestee requesting an administrative hearing, unless the arrestee is unable to pay;
- (2) Creating the administrative hearing on revocation of driver's license special fund into which fees will be deposited and from which disbursements will be made to cover the costs of processing requests for hearings;
- (3) Requiring a report to the Legislature prior to the regular session of 1997;
- (4) Changing the effective date to July 1, 1996; and
- (5) Making technical, nonsubstantive changes for purposes of style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2982, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2982, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Anderson).

SCRep. 1767 Judiciary on S.B. No. 3035

The purpose of this bill is to allow the Hawaii Civil Rights Commission to receive reimbursement of attorney's fees and court costs when it successfully prosecutes an action, as complainants with private law firm expenses do.

Your Committee finds that the Hawaii Civil Rights Commission implements the state constitutional guarantee that no person shall be discriminated against in the exercise of the person's civil rights. In many cases brought under the civil rights law, a complainant is represented by a private attorney. Private representation can be expensive and, to avoid chilling the exercise of a person's civil rights under the law, the Legislature already provides that payment to the complainant of the costs of maintaining the action before the commission is appropriate.

In certain instances, the Commission itself prosecutes the action, such as when the complainant has no attorney. Prosecution of an action can be costly, and the Commission's budget has been reduced due to the State's fiscal situation. Your Committee finds that allowing the Commission to receive reimbursement for maintaining a successful action is appropriate, as it puts the Commission on the same footing as a complainant with a private attorney. This change will also help the Commission continue to carry out its mission by providing reimbursement for litigation which can then be used to fund subsequent cases. Complainants without financial resources deserve justice as much as those with resources to hire an attorney. Allowing the Commission to be reimbursed for maintaining actions on behalf of these less fortunate persons will provide justice for all.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3035 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Chumbley, Anderson).

SCRep. 1768 Communications and Public Utilities on S.B. No. 641

The purpose of this bill is to appropriate \$62,000 for fiscal year 1996-1997 for grants-in-aid to the neighbor island public access organizations to purchase taping and other equipment needed for broadcasting state legislative proceedings.

Your Committee strongly supports PEG access community television, and recognizes its importance in providing high-quality public, educational, and governmental programming to viewers throughout the State.

Your Committee finds that PEG access programming (such as broadcasts of legislative proceedings) is especially important to citizens on the neighbor islands since the broadcasts may represent their only direct means of reviewing legislative proceedings. Current technology, however, requires that coverage of legislative proceedings be broadcast from Oahu to the neighbor islands at inconvenient viewing times. Improving the PEG access organizations' broadcasting equipment would allow them to tape legislative proceedings and then replay them during prime viewing hours.

Your Committee believes that this measure will enhance neighbor island participation in the legislative process.

Your Committee notes that the same appropriation was passed by the Legislature during the 1995 First Special Session, but funds have not yet been released.

As affirmed by the record of votes of the members of your Committee on Communications and Public Utilities that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 641, S.D. 1, and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Chumbley, Kanno, Matsuura).

SCRep. 1769 Communications and Public Utilities on S.B. No. 3268

The purpose of this bill is to provide continued legislative support and funding for the legislative public access program, which includes the public access room, legislative broadcast project, and the new legislative internet project, and establish a joint legislative access committee.

Your Committee finds that the legislature's public access program has been instrumental in increasing the level of citizen participation in the legislative process. For many people, the public access room at the state capitol is the only source of information and assistance regarding important legislative measures and hearings. For those citizens on the neighbor islands and others that are unable to visit the state capitol, the legislative broadcast project has been broadcasting floor sessions, hearings, and briefings via cable television. The new legislative internet project will enhance public access to legislative information through internet access to the ACCESS legislative information service.

Your Committee further finds that the establishment of a joint legislative access committee will provide oversight of the broadcast project, as well as review and provide policy recommendations on the legislative broadcast project, public access room, legislative internet project, and other public access projects of the legislature.

Your Committee supports this measure and believes that it will promote increased participation among an informed citizenry and help to maintain a healthy democracy in the State.

Your Committee has amended this bill by incorporating language from S.B. No. 2675 which transfers the functions and duties of the public access room to the Legislative Reference Bureau. In addition, your Committee has amended the bill by adding language further clarifying this transfer. Your Committee believes that the services provided to the public by the Legislative Reference Bureau are compatible with the functions of the public access room and that the bureau will further provide an effective administrative and oversight structure for the room.

Your Committee has also expanded the membership of the joint legislative access committee by providing that the President of the Senate and the Speaker of the House of Representatives shall each appoint a chair and two members, or more, one of whom shall be a member of the minority party.

Your Committee has also made several technical, nonsubstantive changes for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Communications and Public Utilities that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3268, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3268, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 2 (Matsuura, Liu).

SCRep. 1770 Ecology and Environmental Protection on S.B. No. 3078

The purpose of this bill is to authorize the deposit of amounts in excess of plaintiffs' damages derived from court-ordered awards, judgments, and settlements garnered from environmental suits into the Environmental Response Revolving Fund.

Your Committee finds that allowing the deposit of funds deemed in excess of plaintiffs' costs in an environmental suit into the Environmental Response Revolving Fund is an appropriate manner in which to increase usable capital within the Fund.

Your Committee has amended the bill by clarifying that "out-of-pocket damages" means compensatory damages, attorneys fees, and expenses.

As affirmed by the record of votes of the members of your Committee on Ecology and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3078, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3078, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Chumbley, Ikeda).

SCRep. 1771 (Joint) Judiciary and Education on S.B. No. 2083

The purpose of this bill is to require the Department of Education, in consultation with the Department of Public Safety, to develop and conduct a program for the initial and ongoing training of school security attendants.

Specifically, this bill:

- (1) Requires the training program to consist of not less than seventy hours and, where feasible, to be developed in collaboration with individual schools, school/community-based management councils, school administration, students, other school support personnel, and the community;
- (2) Requires school principals, vice principals, teachers, and support personnel to be involved in the training being provided to the security attendants so that every security attendant may be evaluated for job performance and to promote a more common understanding of school security responsibilities;
- (3) Requires the training curriculum to cover:
 - (A) The basic essentials commensurate with the position description for security attendants, including crisis intervention and diffusion;
 - (B) Techniques in horizontal and vertical patrols;
 - (C) Report writing;
 - (D) First responder training; and
 - (E) Safety functions;
- (4) Requires training in and information concerning the penal code, search and seizure laws, the laws of arrest, and similar law enforcement subjects to be provided primarily at a modified and reduced version of law enforcement training;
- (5) Requires the training program to emphasize intervention and diffusion techniques to temporarily maintain order until law enforcement officers arrive to minimize potential liability, but allows training to be offered along the use of force continuum;
- (6) Requires the departments to utilize existing resources in instituting both the initial training program as well as the ongoing training program for school security attendants; and
- (7) Requires school security attendants to successfully complete the training program in accordance with the departments' training standards.

In addition, this bill requires the Department of Education to develop criteria to hire ten special duty law enforcement officers at selected schools where law enforcement powers may be deemed necessary to ensure the safety of students and staff.

Your Committees received testimony in support of this bill from the Department of Education and the Department of Public Safety. The Hawaii State Teachers Association submitted testimony in support of a similar bill (S.B. No. 2260) to appropriate funds to establish a continuous training program for school security attendants to be conducted by the Department of Education, the Department of Public Safety, and the county police departments.

Your Committees have amended this bill by:

- (1) Deleting the provision requiring school security attendants to maintain order primarily by intervention and diffusion only;
- (2) Adding a provision to appropriate an unspecified sum from the criminal forfeiture fund for the training of school security attendants and the hiring of ten special duty law enforcement officers at selected schools; and
- (3) Making technical, nonsubstantive changes for purposes of clarity, consistency, and style.

As affirmed by the records of votes of the members of your Committees on Judiciary and Education that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2083, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2083, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.
Ayes, 7. Noes, none. Excused, 2 (Bunda, Matsunaga).

SCRep. 1772 Judiciary on S.B. No. 2330

The purpose of the bill is to allow the Legislative Auditor to maintain the confidentiality of its working papers, to impose requirements on the measures submitted for the Auditor's review, and to allow the Auditor to hire attorneys.

Your Committee finds that the Auditor performs a necessary and important state function, such that its working papers should be protected from disclosure during the pendency of its audits and investigations.

Your Committee further finds that the Auditor's ability to fulfill its function and to discharge its statutory duties may be jeopardized, where its working papers are subject to discovery prior to the release of the final report.

Given the availability of the working papers for public review following the release of the report, your Committee believes that the Auditor's working papers pertaining to audits and investigations should not be subject to review and inspection by the media, attorneys, state officials, advocacy groups, and others prior to the release of the report.

Your Committee received testimony in opposition to the bill from the Attorney General, who recommended that the reports be deemed inadmissible evidence and that the State be allowed to call the Auditor and its staff as witnesses to testify on the State's behalf.

Your Committee finds that the Auditor's reports constitute public record and that there are no justifiable reasons to bar the admissibility of these reports.

Your Committee also finds that requiring referrals of certain measures to the Auditor be made in the form of a concurrent resolution identifying the specific legislative bills to be analyzed will benefit the Auditor by providing greater certainty as to the measure sought to be enacted and greater assurance that both houses of the Legislature agree on the measure.

Due to the nature of its work, your Committee finds that it is appropriate to allow the Auditor the option of hiring its own attorney.

Upon consideration, your Committee amended the bill to:

- (1) Substitute language in the confidentiality clause to protect the Auditor's working papers from disclosure and to allow the Auditor the ability to release information necessary for the furtherance of its audits and investigations;
- (2) Define "working papers" to mean the notes, internal memoranda and records of work performed by the Auditor on audits and other investigations undertaken pursuant to statute, including any and all project evidence collected and developed; and
- (3) Allow the Auditor to appear as a witness on behalf of the State.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 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 referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 2 (McCartney, Anderson).

SCRep. 1773 Judiciary on S.B. No. 2457

The purpose of this bill is to make housekeeping amendments to the campaign spending law.

In particular, this bill:

- (1) Amends the definition of "committee" in section 11-191, Hawaii Revised Statutes, to include any candidate committee, noncandidate committee, sole electoral activity committee, political committee, exploratory committee, and any other organization accepting contributions or making expenditures as provided in that definition;
- (2) Amends the definition of "contribution" in section 11-191, Hawaii Revised Statutes, to include loans and advances;
- (3) Amends the definition of "noncandidate committee" in section 11-191, Hawaii Revised Statutes, to mean any corporation, partnership, organization, association, or other entity, instead of a "committee" as defined in that section, but does not include any individual, while retaining existing language that the term does not include a candidate's committee;
- (4) Amends section 11-193(a), Hawaii Revised Statutes, relating to the duties of the commission, to include the requirement that the commission adopt advisory opinions to provide policy guidance to candidates;
- (5) Amends section 11-196, Hawaii Revised Statutes, by adding a new subsection (b) relating to the reporting of changes in information submitted in the organizational report, which was inadvertently omitted in the amendment to that section made by Act 10, Special Session Laws of Hawaii 1995, section 2(6);
- (6) Amends section 11-204(a), Hawaii Revised Statutes, to add qualifying language that subsection (a) applies "except as provided under subsection (b)";
- (7) Amends section 11-205.5(a), Hawaii Revised Statutes, relating to campaign contributions by state government contractors, requiring that any person, including any contractor, subcontractor, vendor, subvendor, or assignee, who makes a contribution in excess of \$100 within a twelve month period before and after receipt of a state or

county contract, subcontract, or assignment of \$50,000 (rather than having received \$50,000 or more through state or county contracts in any calendar year) to register and report to the commission as required in that section; and

- (8) Amends section 11-205.6, Hawaii Revised Statutes, relating to campaign contributions and loans, by requiring that loans in excess of \$100 to any committee or party, as well as to a candidate, be documented and disclosed to the commission; and by requiring that a loan by a chartered state or federal financial institution made in the ordinary course of business be deemed a contribution subject to campaign contribution limits.

Your Committee agrees with the intent of the bill to amend the campaign spending law to close existing loopholes and ensure the integrity of the electoral process in Hawaii. Upon further consideration, your Committee has amended this bill by:

- (1) Deleting the amendments made to the definition of "committee";
- (2) Amending the definition of "contribution" by deleting the word "advance";
- (3) Amending the definition of "noncandidate committee" by deleting the words "or any individual";
- (4) Amending section 11-193(a), Hawaii Revised Statutes, by requiring the commission to adopt advisory opinions to provide guidance to candidates on rules and other procedures, rather than on policy;
- (5) Deleting the amendments made to sections 11-204(a), 11-205.5, and 11-205.6(b), Hawaii Revised Statutes;
- (6) Adding a new section containing language from S.B. No. 2515 (1996), which amended section 11-217, Hawaii Revised Statutes, regarding the Hawaii election campaign fund, to provide that no more than \$100,000 shall be available annually to the commission from the fund to carry out the purposes of the law relating to election campaign contributions and expenditures;
- (7) Adding a new section to appropriate funds from the Hawaii election campaign fund to the commission for the administration of the campaign spending laws. The amount of the appropriation has been left blank to facilitate further discussion on the funding necessary to carry out the purposes of this measure; and
- (8) Making technical, nonsubstantive changes for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2457, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2457, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (McCartney, Anderson).

SCRep. 1774 Housing on S.B. No. 2185

The purpose of the bill is to amend section 237-13, Hawaii Revised Statutes, by adding a new paragraph relating to the taxation of lessors and sublessors of real property. This amendment will allow intermediary sublessors to exclude from general excise tax the total gross rental income paid in a sublease. In other words, the sublessor would be allowed to deduct the rents paid to a prior lessor for the property that is subleased. Thus, the final sublessee would pay the general excise tax on the entire rent due while the landlord, if also a sublessor, would reduce the amount of gross income subject to the general excise tax by an amount of rent that was paid to the original lessor.

The Department of Taxation submitted opposing testimony stating that the taxation of lessors and sublessors is a multidimensional problem which this bill will only exacerbate and ultimately cause a revenue loss to the State.

Testimony in favor of this bill was submitted by the National Federation of Independent Business, The Chamber of Commerce of Hawaii, and the Tax Foundation of Hawaii.

Testimony revealed that this measure addresses the problem of pyramiding of the general excise tax in leasing transactions. Currently, the four percent general excise tax is imposed on all rentals, including the subleasing of real property as rentals are considered a service and generally assumed to be a sale to a final consumer. Each lessor/sublessor in a subleasing chain is assessed an incremental tax of four percent on the amount of the lease which includes the general excise and property tax paid by prior lessors.

Your Committee finds that the enactment of this measure would be an important step toward the reduction of tax pyramiding which is ultimately passed on to the consumer in higher costs for products or services. This specific reform to the general excise tax will help to reduce the cost of doing business in Hawaii, alleviate the impact of the general excise tax, and enhance Hawaii's business climate.

Your Committee has amended the bill by making technical, nonsubstantive amendments for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2185, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2185, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Holt).

SCRep. 1775 Housing on S.B. No. 2626

The purpose of this bill is to assist the residents of Maunaloa to upgrade or rebuild their homes by exempting the Maunaloa subdivision from all state and county subdivision and housing development standards.

The City and County of Honolulu submitted opposing testimony as it may impact the county's ability to ensure the health and safety of its residents.

Testimony in support of this measure was submitted by the Department of Land and Natural Resources, the Office of Hawaiian Affairs (OHA), and a private citizen of Maunaloa.

The legislature finds that many families of Hawaiian ancestry living in the Maunaloa region of Makiki Heights have been living in the area for a very long time, some since the Great Mahele. Act 225, Session Laws of Hawaii 1981, authorized the Department of Land and Natural Resources to negotiate and enter into long-term residential leases which were offered in 1983, however, only thirty leases were executed and only a few lessees have been able to construct new homes.

Testimony revealed that the remaining residents of Maunaloa live in substandard housing, and have not been able to upgrade or rebuild their homes since they are unable to qualify for loans due to substandard infrastructure and because they do not own the land.

Your Committee finds that the enactment of this measure will lay the groundwork to assist the residents of Maunaloa in upgrading or rebuilding their homes. With this exemption in place, OHA and other organizations can follow-up in assisting residents in conducting self-help housing projects similar to the one which was conducted in Miloli'i on the Big Island. OHA's Board of Trustees has approved a funding request of \$112,500 from OHA's Housing Division to manage such a self-help housing project for 15 families at Maunaloa. This project is scheduled for FY 1996-97.

Your Committee has amended the bill by making technical, nonsubstantive amendments for the purpose of style and clarity.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of 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 referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, none.

SCRep. 1776 Housing on S.B. No. 2649

The purpose of the bill is to establish a program to certify condominium managers. The bill will require any person employed as a condominium project manager to be certified. Unless a person is deemed certified due to experience or education, the bill requires the person to pass an examination demonstrating competency in the basics of condominium operations and management. The examination is to be developed by the Hawaii Real Estate Commission (HREC).

The HREC, the Community Associations Institute, and the Institute of Real Estate Management submitted testimony in opposition to this measure.

Favorable testimony was submitted by the Board of Directors of Fairway Villa Condominium, the Greenwood Condominium Association, Chaney, Brooks & Company, the Hawaii Council of Associations of Apartment Owners, and several private citizens.

Testimony revealed that condominium projects in this State are home to hundreds of thousands of residents whose welfare is jeopardized by condominium managers lacking sufficient knowledge as to the operation and management of condominiums. Volunteer boards, struggling to assimilate and implement relevant state and federal requirements, often rely on condominium managers, to their detriment, mistakingly assuming the condominium managers possess a certain competence in these areas.

Your Committee finds that the enactment of this measure will help protect owners from incompetent managers, and managers from unfair competition. This bill focuses on the relatively small group of condominium managers, which is more cost-effective than targeting the thousands of volunteer board members. It is also cost-efficient for the State, as state involvement is minimal, consisting of initially developing the certification examination, maintaining the list of those certified, and prosecuting non-certified managers.

Your Committee has amended the bill as follows:

- (1) Section 7 has been amended to change the effective date of the Act to July 1, 1997; and
- (2) Technical, nonsubstantive amendments have been made for the purpose of style and clarity.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2649, as amended herein, and recommends that it pass

Second Reading in the form attached hereto as S.B. No. 2649, S.D. 1, and be referred to the Committee on Consumer Protection.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, none.

SCRep. 1777 Housing on S.B. No. 2715

The purpose of this bill is to provide that the amount of the annual payments made by the Hawaii Housing Authority (HHA) on behalf of a qualified tenant shall not exceed the amount by which the fair market rental exceeds thirty percent of the qualified tenant's income. Present law provides that the annual payment shall not exceed the amount by which fair market rental exceeds one-fifth of the tenant's income. The bill increases the maximum allowable annual payment made by those residing in public housing from 20 percent to 30 percent of their income.

Testimony in support of this bill was submitted by the HHA.

Your Committee was informed that the bill would allow HHA to use standards from national rental assistance programs, and that increasing the share of rent paid by program recipients might allow more people to participate in the program.

Your Committee finds that this measure is necessary to allow the program to survive in these fiscally austere times and should enable HHA to provide rental assistance to more program participants.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2715 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Holt, Taniguchi).

SCRep. 1778 Housing on S.B. No. 2742

The purpose of this bill is to amend sections 521-74(a) and 521-77, Hawaii Revised Statutes, relating to the Landlord-Tenant Code. This bill would expand the protection from retaliatory eviction to include situations where the tenant complained to any division of the Department of Commerce and Consumer Affairs (DCCA), including complaints relating to a real estate broker or salesperson licensed by the State, rather than just the Office of Consumer Protection.

Testimony in opposition to this bill was submitted by a private citizen.

Favorable testimony was submitted by the DCCA.

Testimony revealed that the retaliatory section of the Landlord-Tenant Code was designed to protect the tenant if the tenant complained to various governmental agencies about code violations. Because the Office of Consumer Protection has overlapping jurisdiction with a number of other divisions within the DCCA, it is conceivable that a tenant could file a complaint with another division, such as the Regulated Industries Complaints Office or the Real Estate Commission, and be subjected to retaliatory eviction. This bill would prohibit such a scenario, and would permit other divisions within DCCA to deal with Landlord-Tenant Issues.

Your Committee finds that the enactment of this measure should increase the flexibility in assigning the investigation and complaint resolution function to anywhere in the DCCA instead of only within the Office of Consumer Protection.

Your Committee has amended Section 2 to ensure that the Office of Consumer Protection remains as the entity within DCCA primarily responsible for investigation and complaint resolution while enabling the other divisions to also assist and participate.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of 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 referred to the Committee on Consumer Protection.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Holt).

SCRep. 1779 Housing on S.B. No. 2747

The purpose of this bill is to repeal the requirement that a homeless facility or program file a copy of its current house rules and regulations governing tenancy or participation with the Director of Commerce and Consumer Affairs before issuing a warning or request to leave.

Favorable testimony was submitted by the Hawaii Housing Authority (HHA) and the Department of Commerce and Consumer Affairs (DCCA).

Testimony revealed that the requirement that a homeless facility or provider agency file a copy of the current house rules and regulations governing tenancy or participation, as a precondition to the issuance of a warning or request to leave, is an unnecessary formality. The DCCA has no power to approve or reject rules and regulations. There are no

standards for such a review and the department has no expertise that would render the assignment of the substantive review function to DCCA appropriate.

Your Committee finds that under these circumstances, this filing requirement is a technicality that hinders the efficient management of homeless facilities and programs.

Your Committee has amended the bill by making technical, nonsubstantive amendments for the purpose of style.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2747, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2747, S.D. 1, and be referred to the Committee on Consumer Protection.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Holt, Taniguchi).

SCRep. 1780 Housing on S.B. No. 2819

The purpose of this bill is to identify revolving funds with excess moneys and to authorize the Director of Finance to transfer these moneys, including \$8,000,000 from the Rental Assistance Revolving Fund, to the General Fund on July 1, 1996.

Testimony in opposition to this bill was submitted by the Hawaii Catholic Conference, the American Association of Retired Persons, the Affordable Housing and Homeless Alliance, and the Waikiki Tenants Association.

Favorable testimony was submitted by the Department of Budget and Finance.

The Department of Education submitted testimony requesting the Adult Education Revolving Fund and the Storeroom Revolving Fund be excluded from this measure.

Section 37-53, Hawaii Revised Statutes (HRS), allows departments with the approval of the Governor or the Director of Finance if so delegated by the Governor, to transfer moneys in excess of special fund requirements to the general fund. However, at present a similar statutory authorization for the transfer of excess moneys from revolving funds to the general fund does not exist. As such, specific legislation is required to transfer the excess moneys from the revolving funds.

Testimony revealed that the Rental Assistance Revolving Fund, established under section 201E-132, HRS, provides: (1) rental assistance payments to subsidize rents for low- and moderate-income individuals and families; and (2) interim construction financing for the development of affordable rental housing by private nonprofit and profit entities and the Housing Finance and Development Corporation (HFDC). The fund was capitalized with \$49.1 million in general funds from 1982 to 1991.

Prior to June 30, 1992, only the investment earnings of the fund could be applied to payments for rental assistance. Act 307, Session Laws Hawaii (SLH) 1992, however, incorporated several changes to the program including: authorization to use the principal and investment earnings for rental assistance payments; a requirement that the Director of Finance guarantee the term of the rental assistance contracts up to \$100 million; a requirement that HFDC maintain a reserve equal to 10 percent of the aggregate outstanding guarantees; authorization to use \$25 million plus bond proceeds to provide interim construction financing; and transfer of \$15 million to establish the Rental Housing Trust Fund.

Of the \$25 million set aside for interim construction financing, approximately \$17 million has been committed to two projects, leaving \$8 million uncommitted. Review of the revenues and expenditures of this fund indicate that \$8 million can be transferred to the general fund without jeopardizing the program's ability to meet its objectives including all rental assistance contract obligations.

Your Committee finds that it may be necessary to authorize the transfer of excess funds from designated revolving funds to the general fund in fiscal year 1996-1997 at a time when the State is facing a financial crisis and requires the prudent and most effective use of all of its fiscal resources.

In light of this dire fiscal situation, your Committee has made the following changes:

- (1) Amended the findings and purpose clause to clarify the determination of excess funds; clarify that the transfer will not affect bond ratings; specify which revolving funds are targeted; and ensure that these will be one-time only transfers to be made on July 1, 1996.
- (2) Amended section 2 by adding the transfer of \$3,719,112 from the Hawaii agriculture loan revolving fund, section 155-14, HRS, and \$400,000 from the Hawaii aquaculture loan revolving fund, section 219-4, HRS.
- (3) Added section 3 to appropriate out of the general fund, the sum of \$2,000,000 for fiscal year 1996-1997, for the revitalization of the economically depressed area of Waiialua, Hawaii. The moneys will provide the needed infrastructure for a sustainable community development plan which includes affordable housing, financing for jobs, and financing for small business loans. The sum shall be expended by HFDC.
- (4) Added section 4 to appropriate from general revenues, the sum of \$40,000 for the vocational technical agricultural farm workstudy program, for fiscal year 1996-1997, to be expended by DOE.
- (5) Added Section 5 to ensure that appropriations made in sections 3 and 4 do not lapse until June 30, 1998.

(6) Made technical, nonsubstantive amendments for the purpose of style and clarity.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2819, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2819, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Holt, Taniguchi).

SCRep. 1781 Housing on S.B. No. 2835

The purpose of this bill is to authorize the Housing Finance and Development Corporation (HFDC) to issue an additional \$77,500,000 in tax-exempt revenue bonds for the Hula Mae Multi-Family Mortgage Purchase Program.

Testimony in support of this bill was submitted by the HFDC.

The Hula Mae Multi-Family Program provides non-profit and for-profit developers with below-market interest rate loans for the development of affordable rental projects. Under this program, the HFDC is authorized to issue tax-exempt revenue bonds, and to make eligible project loans to finance projects that provide for either (1) the addition of new units to the rental housing inventory of the State, or (2) the rehabilitation and preservation of existing housing accommodations.

The HFDC is currently authorized, under the program, with the approval of the Governor, to issue tax-exempt revenue bonds in the aggregate principal amount of \$122,500,000.

Testimony revealed that to date the HFDC has issued revenue bonds aggregating \$40,150,000, for 3 projects with a total of 539 units. This leaves only \$82,350,000 of bond authority available to the HFDC and private developers. The bonds are issued by the HFDC on behalf of private developers. The debt obligation of the bonds are the sole responsibility of the developer, and not the HFDC or the State. In addition, the HFDC requires that all bond issues be credit enhanced via bond insurance or letters of credit to insure the credit status of the HFDC.

Your Committee finds that with the HFDC's increased promotion of the rental housing financing programs, the growing demand for funds may exceed supply. It is crucial that the HFDC secure an adequate amount of authorization. Therefore, it is recommended that an additional \$77,500,000 of revenue bond authorization be granted, bringing the aggregate authorization up to \$200,000,000.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2835 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Holt, Taniguchi).

SCRep. 1782 (Joint) Housing and Hawaiian Affairs on S.B. No. 2866

The purpose of this bill is to authorize the transfer of lands from the Housing Finance and Development Corporation (HFDC) development known as the Villages of Kapolei on Oahu, to the Department of Hawaiian Home Lands to satisfy the requirement of section 6(1) of Act 14, First Special Session Laws of 1995.

Act 14, First Special Session Laws of 1995, resolved the controversies arising from the misuse of Hawaiian Home Lands by requiring the State to make annual payments of thirty million dollars for twenty years. The Act permits the State to substitute, from time to time, land or other consideration in lieu of the payments.

Testimony in partial opposition to this bill was submitted by the Native Hawaiian Legal Corporation.

Testimony in support of this measure was submitted by the Department of Budget and Finance, the Department of Hawaiian Home Lands (DHHL), the State Council of Hawaiian Homestead Associations, the Independent Council of Native Hawaiians, and a private citizen.

Your Committees find that since the settlement funds appropriated under Act 14 for the current biennium have been earmarked for the completion of acceleration projects in Kula and Kalamaula, the enactment of this bill which would transfer land in lieu of cash will serve to settle some of the State's future obligations.

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

As affirmed by the records of votes of the members of your Committees on Housing and Hawaiian Affairs that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2866, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2866, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.
Ayes, 6. Noes, none. Excused, 4 (Graulty, Holt, Levin, Taniguchi).

SCRep. 1783 Housing on S.B. No. 2950

The purpose of this bill is to prohibit the promotion of a controlled substance in public housing.

Favorable testimony was submitted by the Hawaii Housing Authority and the Honolulu Police Department.

Testimony revealed that the incidence of drug cases surrounding public housing is increasing. These violations jeopardize the safety and welfare of the community.

Your Committee finds that making the promotion of a controlled substance near a public housing project a Class C Felony will strengthen the law and assist law enforcement.

Your Committee has amended the bill by making technical, nonsubstantive amendments for the purpose of style and clarity.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of 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 Judiciary.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Holt, Taniguchi).

SCRep. 1784 (Majority) Housing on S.B. No. 2984

The purpose of this bill is to amend section 521-71, Hawaii Revised Statutes, (HRS) of the Landlord-Tenant Code to make the amount of holdover rent awarded a landlord when a tenant wrongfully holds over after the termination of a rental agreement, discretionary with the court.

Testimony in opposition to this bill was submitted by Neeley & Anderson Attorneys at Law and a private citizen.

Favorable testimony was submitted by the Judiciary and the Department of Commerce and Consumer Affairs.

Testimony revealed that under current law, judges must award holdover rent of twice the monthly rent against any residential tenant who is determined to have improperly stayed within the rented premises. There are situations in which this mandatory award is excessively harsh, such as where the tenant suddenly came upon dire economic times due to layoffs or injuries suffered in an accident. The mandatory award is burdensome where the tenant reasonably withholds rent because of a landlord's failure to repair, but is found to have owed some money to the landlord, although not all the landlord claimed.

Under the clear language of the current law, judges have no discretion to decide whether awarding double rent would be fair under the circumstances.

Your Committee finds judges should be able to determine the appropriate penalty to be awarded given the facts and testimony of a particular summary possession action. The enactment of this measure would not reduce the maximum amount that could be awarded a landlord, but would permit the judge to take into account mitigating factors which may have attributed to the holdover situation.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2984 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chairman on behalf of the Committee.
Ayes, 2. Noes, 1 (Liu). Excused, 2 (Holt, Taniguchi).

SCRep. 1785 (Joint) Housing and Education on S.B. No. 3011

The purpose of the bill is to authorize the Housing Finance and Development Corporation (HFDC) to enter into development agreements with private developers to expedite the construction of school facilities for the villages of Kapolei.

Your Committees find that the Second City of Kapolei is the fastest growing population in the State and the number one concern of the residents in the community is the lack of adequate school facilities. This bill would provide a means of constructing badly needed secondary schools in the rapidly growing Kapolei area.

Your Committees received favorable testimony from the Department of Education, the HFDC, the Hawaii Chapter of Associated Builders and Contractors, the Second City Education Committee, and the Villages of Kapolei Association.

Your Committees have amended the bill by:

- (1) Adding language to state that HFDC may authorize a private developer to construct school facilities and may structure the financial obligation concerning school facility construction with the private developer in accordance with all applicable state and federal laws; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity.

As affirmed by the records of votes of the members of your Committees on Housing and Education that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 3011, as amended herein, and

recommend that it pass Second Reading in the form attached hereto as S.B. No. 3011, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.
Ayes, 8. Noes, none. Excused, none.

SCRep. 1786 Judiciary on S.B. No. 2195

The purpose of this bill is to assess fees for driver education classes resulting from moving violations, from out-of-state court sentences, and from violations occurring out-of-state or on a military facility.

Your Committee finds that the additional fees and the fee increase for moving violations are necessary to help the driver education and training fund to remain solvent, improve its cash flow, and to have the driver education program operate within budget.

Your Committee has amended this bill to decrease the fee for moving violations from \$50 to \$10. Your Committee has deleted language that these fines be paid in addition to other fines, regardless of whether the fines are suspended, and that the \$100 fine levied under section 291-4, Hawaii Revised Statutes (driving under the influence of intoxicating liquor) may be waived. Your Committee believes that individuals who can afford the money to consume the liquor and afford the motor vehicle needed to be convicted of driving under the influence of intoxicating liquor ought to be able to afford or be made to pay the \$100 fine levied under section 291-4. Your Committee has also moved the contents of the new subsection (e) in section 286G-3, Hawaii Revised Statutes, and placed it more appropriately in section 286G-3(b) as paragraph (3).

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2195, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2195, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Anderson).

SCRep. 1787 Judiciary on S.B. No. 2695

The purpose of this bill is to ensure the continued funding of the Department of the Attorney General's Medicaid Investigations Division.

Your Committee finds that the Medicaid Investigations Division investigates and prosecutes fraud and overbilling and cases of patient abuse in health care facilities in the State's Medicaid and other health programs. Effective on July 1, 1995, the general fund portion of the division's funding source was replaced by moneys from the Medicaid investigations recovery fund newly created under section 28-91.5, Hawaii Revised Statutes. However, with the shift to special fund funding, no new additional moneys were appropriated to cover matching funds for employee fringe benefits. In addition, moneys for lease and investigative expenses also need to be appropriated. This bill appropriates the needed \$77,926 for fiscal year 1995-1996 to cover these necessary expenses and allow the Department to meet its fiscal obligations.

Your Committee wishes to note that the Medicaid Fraud Unit has divested itself of the ill-advised practices of its earlier days, particularly during the late 1970s and mid-1980s. Your Committee recalls that the record of the Medicaid Fraud Unit, at that time, had been uneven, reflecting some convictions against medical providers. However, at that time, the Unit had pursued small, independent Medicaid providers with perhaps an excessive zealotry resulting in a "medical community so terrorized, many refused to treat Medicaid patients" according to one newspaper report dated October 20, 1986.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2695 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Anderson).

SCRep. 1788 Judiciary on S.B. No. 2988

The purpose of this bill is to allow for the collection by the Attorney General, of traffic and criminal fines in the same manner as a judgment in a civil action.

The intent of this bill is to make it possible, where appropriate, to convert a traffic fine and a criminal monetary judgment from a criminal matter to an actual civil judgment. This would increase the collection rate for outstanding fines and help to fill the State's coffers during this austere budgetary time. Your Committee received testimony from the Judiciary and the Attorney General to clarify the proposal and to include in addition to fines, the collection of costs, interest, and attorney's fees as part of the Attorney General's authority.

In light of the foregoing your Committee has amended this bill by specifying that the Attorney General may institute proceedings to collect the fine, costs, interest, and attorney's fees as a civil judgment and by repealing contradictory language regarding the levy of execution of an unpaid civil judgment entered against the criminal defendant in an action on a debt, under section 706-644 (5), Hawaii Revised Statutes.

Your Committee believes that these amendments will both clarify the Legislature's intent and the authority of the Attorney General in collecting fines, costs, interests, and attorney's fees owed by defendants as a result of traffic and criminal cases.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2988, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2988, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Chumbley, Anderson).

SCRep. 1789 Judiciary on S.B. No. 3027

The purpose of this bill is to permit the Family Courts to use the Hawaiian alternative for conflict resolution called "ho'oponopono". This bill establishes a three-year demonstration project to be used in disputed child and adult custody cases involving clients of Hawaiian ancestry. Persons who are well respected, culturally sensitive, and knowledgeable will also be recruited as the haku, or person to oversee the ho'oponopono process.

Your Committee recognizes that the cultural native Hawaiian practice called ho'oponopono is a traditional process of restoring peace and harmony in a relationship based on the principles of lokahi (unity), pono (goodness or morality), and survival. Many Family Court issues arise out of dysfunctions in the family relationships over and above the economic, social, and perhaps mental or medical problems faced by the members of the family. The opportunity to help these families using the method of ho'oponopono to repair and not to discipline the members of the family in a three year demonstration project may be an important step toward finding ways to help these families without increasing guilt and strife. The goal here is to adapt the cultural practice in a way that will help the Family Court to deal with families who are amenable to assistance using traditional methods. There is no intention to undermine or denigrate any other cultural meanings.

Your Committee has amended this bill by substituting the word "section" in place of "subsection" on page 12, line 19 to conform to the printed text of the Hawaii Revised Statutes.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3027, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 3027, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (McCartney, Anderson).

SCRep. 1790 Judiciary on S.B. No. 3057

The purpose of this bill is to permit the Kaho'olawe Island Reserve Commission to employ its own attorneys.

Your Committee finds that the establishment of the Kaho'olawe Island Reserve Commission has fulfilled a unique and compelling state need and interest to preserve, manage, rehabilitate, and restore the island during its time of transition from the federal government to its eventual transfer to a recognized sovereign native Hawaiian governmental entity. The Commission is entering its final phase of negotiations and planning before the United States Navy issues a multi-year cleanup contract. The Commission requires legal advice on a number of procedures and protocols for this important contract, which could run until the year 2003.

Your Committee further finds that the assistance of a full-time attorney in this phase is crucial. Due to the four levels of governmental involvement -- federal, State, county, and sovereign nation -- independent counsel is necessary to ensure that the result is responsive to all parties involved. Your Committee notes that the hiring of an attorney will be done with federal, and not state, funds.

Your Committee has amended this bill by replacing an incorrect reference to "chapter 65" with the correct reference to "chapter 6K."

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3057, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3057, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (McCartney, Anderson).

SCRep. 1791 Transportation and Government Affairs on S.B. No. 2074

The purpose of this bill is to appropriate funds for The Kauai Gateway Beautification Project.

Specifically, this project will provide landscaping and irrigation improvements to areas in close proximity to Lihue Airport, and along the roadways and highways leading to the airport, including major highways which were inadequately landscaped by the State in the past. Given the obvious importance of first impressions in beginning a visitor's stay on the Garden Island, it is believed that by enhancing the appearance of the area and making it an example of the spectacular beauty of Kauai, it cannot fail to stimulate tourism. The total cost of the project is \$5,200,000; however, construction

costs of \$4,000,000 will be paid by federal highway funds under the Intermodal Surface Transportation Efficiency Act, and construction costs of \$1,000,000 will be from private contributions, labor, and materials.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2074, S.D. 1, and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Anderson).

SCRep. 1792 Transportation and Government Affairs on S.B. No. 2088

The purpose of this bill is to increase the bidding preference on public works projects given to contractors who are current on their state taxes from five per cent to fifteen per cent.

The bill received favorable testimony from the Hawaii Operating Engineers Industry Stabilization Fund, the Hawaii Construction Industry Association, the Hawaii Masons Union Local 1 and Local 630, and the Plumbers and Fitters Local 675. All indicated that the bill would give them a level playing field and would allow them to compete, particularly against mainland competitors.

Although not opposed to a preference, the Department of Accounting and General Services indicated strong reservations to the fifteen per cent preference in its testimony. The Department noted that fifteen per cent on a \$5,000,000 was \$750,000. The Department stated that this could affect the State's ability to procure the best price and that the taxpayer could end up subsidizing the preference. The Department of Taxation also submitted testimony, and although not opposed to the bill, stated that better compliance could be had by requiring bidders to produce a state tax clearance.

Your Committee has amended the bill by retaining the five per cent bidding preference, and by increasing the number of years state returns and taxes must be filed and paid to qualify for the preference. Firms must diligently file and pay state taxes for four years, instead of two years, to be entitled to the preference in projects of \$5,000,000 or less, and must diligently file and pay state taxes eight years, instead of four years, to be entitled to the preference in projects over \$5,000,000.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2088, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2088, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Tanaka, Taniguchi).

SCRep. 1793 Transportation and Government Affairs on S.B. No. 2919

The purpose of this bill is to authorize the Director of Taxation to enter into contracts with private auditors or private audit firms for the examination or investigation of persons subject to state taxes; and to authorize the Director to enter into contracts with persons in other countries to collect delinquent taxes of former state residents living in such countries. The bill further provides that such contracts, at the Director's discretion, may provide for compensation on a fixed price basis, an hourly rate basis, or a contingent fee basis, and that payment may be made contingent on the actual collection of taxes.

Favorable testimony in support of this administration bill was received from the Department of Taxation and the Chamber of Commerce of Hawaii.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2919 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Taniguchi, Anderson).

SCRep. 1794 (Joint) Transportation and Government Affairs and Communications and Public Utilities on S.B. No. 2999

The purpose of this bill is to require the Director of Transportation to install public utility lines underground in new or existing federal-aid highway projects requiring the installation of new utility facilities or the relocation of existing utility facilities if federal highway funds are available for such work. The Director may make exceptions only after public hearing, and if the director determines an exception is appropriate under specified conditions.

The bill received favorable testimony from The Outdoor Circle, and E. Alvey Wright, a private citizen. Testimony in opposition to the bill was submitted by Hawaiian Telephone, Hawaiian Electric Company and its subsidiaries, and the Department of Transportation (DOT).

The present bill is similar to a bill, S.B. No. 853, S.D. 1, H.D. 1, C.D. 1, which was passed by the Legislature in 1995, but vetoed by the Governor. DOT provided proposed language which addressed its concerns, and those expressed by the Governor when he vetoed S.B. No. 853.

Your Committees have amended the bill to conform it to S.B. No. 853 and have incorporated the language proposed by DOT.

As affirmed by the records of votes of the members of your Committees on Transportation and Government Affairs and Communications and Public Utilities that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2999, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2999, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.
Ayes, 9. Noes, none. Excused, 3 (Kanno, Matsuura, Anderson).

SCRep. 1795 Transportation and Government Affairs on S.B. No. 3009

The purpose of this bill is to provide for a rate discount for water carriers for the shipping of island agricultural products.

This bill prohibits the public utilities commission from approving any rate, fare, or charge of water carriers that does not provide a discount for the transportation of island agricultural products, which are specified in the bill. The amount of discount is a percentage that is unspecified in the bill.

Your Committee believes that this bill would facilitate the transportation and marketing of island agricultural products, and thus promote this highly important industry. Transportation costs are a critical component of the pricing of these products, where even a few cents difference could make a big difference in profitability.

Your Committee has amended this bill by adding to the definition of island agricultural products "island food products with not more than fifty-one per cent of their wholesale value added by processing outside of the State" and "livestock". Your Committee thus recognizes that many of these products are grown in Hawaii but processed out of State, usually due to the high costs of processing in Hawaii. Your Committee has also made technical, nonsubstantive amendments.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3009, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3009, S.D. 1, and be referred to the Committee on Communications and Public Utilities.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Anderson).

SCRep. 1796 Ecology and Environmental Protection on S.B. No. 659

The purpose of this bill is to limit the liability of any person for the release of heavy fuel oil from a tank barge carrying such oil interisland under the state environmental response law.

Your Committee finds that the need to shield the tank barge that transports heavy fuel oil interisland from unlimited environmental response liability still remains because the utility companies for the islands of Maui and Hawaii continue to rely significantly on the availability and use of heavy fuel oil. Your Committee believes it is in the best interests of residents of Maui and Hawaii to allow the utility companies on those islands additional time to convert their operations to the use of alternate fuel sources.

Your Committee amended this bill to make it effective on January 1, 2000, to ensure further discussion on this bill. Your Committee also noted the reservations expressed by the department of health and the department of business, economic development and tourism concerning an open-ended exemption from liability and included a two year sunset provision in this bill.

As affirmed by the record of votes of the members of your Committee on Ecology and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 659, S.D. 1, as amended herein, and recommends that it be referred to the Committee on Judiciary in the form attached hereto as S.B. No. 659, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Chumbley, Ikeda).

SCRep. 1797 Ecology and Environmental Protection on S.B. No. 3249

The purpose of this bill is to strengthen the State's environmental protection laws while concomitantly making them more accessible to the people of the State.

Specifically, the bill requires the Department of Health to amass a complete compilation of all the Department's environmental protection statutes, rules, policies, and guidelines in a central location for availability to the public.

The bill also specifically enumerates under each of the following categories within the State's Environmental Policy (section 344-3, Hawaii Revised Statutes) that it is the State's responsibility to:

- (1) Maintain its coastal waters in manner that is healthy and safe for humans, marine animals, and marine plant life;
- (2) Preserve, restore, and protect the water quality of the State's streams, ponds, wetlands, estuaries, reservoirs, and artificial inland water bodies for fish, wildlife, recreation, aesthetic enjoyment, and human use;

- (3) Protect groundwater resources from contamination;
- (4) Protect the land from future contamination and rehabilitate contaminated lands relative to the risk associated with its contamination; and
- (5) Protect air quality.

Your Committee believes that the public is often bewildered by the myriad environmental statutes, rules, policies, and guidelines that the Department of Health is mandated to oversee. By compiling all this information and placing it in a central location, the people of the State will have a better opportunity to understand the State's environmental protection regulatory process.

Your Committee also believes that although the State should make the proposed categories part of its environmental policy, the specific details should be determined by the agencies. The proposed categories are intended to serve as guidelines for agencies in their respective decisionmaking processes.

Your Committee, therefore, has amended the bill by deleting the specific details relating to the proposed amendments to the State's Environmental Policy. A technical, nonsubstantive amendment also has been made for purposes of style.

As affirmed by the record of votes of the members of your Committee on Ecology and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3249, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3249, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Chumbley, Ikeda).

SCRep. 1798 (Majority) Tourism and Recreation on S.B. No. 2384

The purpose of this bill is to legalize and regulate horse racing and pari-mutuel wagering on horse racing in Hawaii.

Your Committee finds that the State's economy is based upon maintaining a healthy visitor industry and, therefore, we need to continually develop new markets and attractions to expand our potential visitor base. Your Committee further finds that various mainland and international destinations have developed very competitive marketing strategies, such as incorporating gambling venues to broaden their visitor bases. Your Committee believes that horse racing can provide a new niche market that will be compatible with many visitors' desire to enjoy Hawaii's beautiful physical environs as well as their desire to engage in gaming activities.

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

As affirmed by the record of votes of the members of your Committee on Tourism and Recreation that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2384, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2384, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, 1 (Iwase). Excused, 1 (Liu).

SCRep. 1799 Tourism and Recreation on S.B. No. 2676

The purpose of this bill, as received by your Committee, is to appropriate \$50,000 for the third annual Royal Hawaiian Rowing Challenge.

Your Committee finds that the Royal Hawaiian Rowing Challenge is a growing sporting event held on the Ala Wai canal that last year attracted 130 athletes and thirteen clubs from around the world. Your Committee further finds that support for this event is consistent with the State's efforts to develop diverse sporting venues to attract additional visitors.

Your Committee has amended this bill by deleting the appropriation amount for further consideration by the Committee on Ways and Means.

As affirmed by the record of votes of the members of your Committee on Tourism and Recreation that is attached to this report, your Committee 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 referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Liu).

SCRep. 1800 Tourism and Recreation on S.B. No. 3166

The purpose of this bill is to appropriate funds for the promotion of the Hawaii Winter Baseball League.

Your Committee finds that Hawaii's visitor industry has been focusing on identifying niche markets, including the promotion of sporting events, to boost our visitor arrivals. Your Committee further finds that a Hawaii winter baseball league would be a source of additional entertainment for visitors as well as residents.

As affirmed by the record of votes of the members of your Committee on Tourism and Recreation that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3166 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Liu).

SCRep. 1801 Tourism and Recreation on S.B. No. 3200

The purpose of this bill, as received by your Committee, is to establish a convention center advisory task force, allocate additional transient accommodations tax to address community impacts of the convention center, and to authorize general obligation bonds to support traffic mitigation projects.

Your Committee finds that the Hawaii convention center will impact the entire population of Hawaii and especially the lives of those residents in the immediate area. Your Committee further finds that the convention center advisory task force will provide a central mechanism for the involvement of all interested organizations and individuals in the planning and further development of the surrounding communities. Your Committee believes that it is important to address infrastructure needs and other community impacts concurrently with the construction of the convention center, rather than waiting until adverse situations arise from lack of planning and anticipation of community impacts.

Your Committee, upon further discussion and consideration, has amended this bill by:

- (1) Directly attaching the advisory council to the convention center authority for administrative purposes;
- (2) Adding the Hawaii housing authority as an ex-officio member of the council;
- (3) Providing a methodology for the senate president and speaker of the house of representatives to appoint representatives from the list of designated organizations;
- (4) Adding representatives from Neighborhood Board Nos. 5, 7, 8, 9, and 11, Hawaii Convention Park Council, Hawaii Visitors Bureau, Waikiki Oahu Visitor Association, Hawaii Hotel Association, Waikiki Improvement Association, Office of Waikiki Development, Oahu Metropolitan Planning Organization, and the Hawaii Transportation Association;
- (5) Extending the council expiration date to June 30, 1999;
- (6) Deleting sections 4 and 5 of the bill which authorize traffic mitigation projects and the financing thereof; and
- (7) Making technical nonsubstantive changes for the purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Tourism and Recreation that is attached to this report, your Committee 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 the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Liu).

SCRep. 1802 Economic Development on S.B. No. 667

The purpose of this bill is to appropriate funds to strengthen the competitive position of the State's ocean research and development industry.

Your Committee finds it vital to the economy of the State that resources be focused to develop and expand markets in the Asian-Pacific region for Hawaii's capabilities and assets in ocean science and technology.

Your Committee finds that Hawaii's ocean research and development (R&D) industry has increased from \$20 million to \$95 million in annual revenues between 1981 and 1994 and demonstrates considerable potential for increased growth. Hawaii risks losing considerable market share, however, to competing regional and international interests that are aggressively promoting their respective ocean R&D programs and capabilities.

These funds would help meet necessary objectives in promoting Hawaii's ocean programs as well as support science and technology activities outlined in the Governor's economic stimulus package.

As affirmed by the record of votes of the members of your Committee on Economic Development that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 667, S.D. 1, and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, none.

SCRep. 1803 Economic Development on S.B. No. 2402

The purpose of this bill is to authorize the Department of Budget and Finance to issue special purpose revenue bonds not to exceed \$50,000,000 to assist Encogen Hawaii, L.P. to establish a cogeneration power plant and related facilities to produce electricity for sale by Hawaiian Electric Light Company.

Your Committee finds that:

- (1) It is in the public interest to encourage the development of energy projects that make electric energy available to members of the general public by its sale to an electric utility serving the public;
- (2) Encogen Hawaii, L.P., a Delaware limited partnership, is engaged in the development of a cogeneration power plant that will sell the electric energy it produces to Hawaii Electric Light Company, Inc., which is an electric utility serving the public; and
- (3) Encogen Hawaii, L.P. may be assisted through the issuance of special purpose revenue bonds because it is an industrial enterprise under Article VII, Section 12 of the Hawaii State Constitution and pursuant to Part V, Chapter 39A, Hawaii Revised Statutes.

Your Committee therefore supports this measure as being in the public interest and for the public health, safety, and general welfare of the State.

Your Committee has amended this bill by making several technical, nonsubstantive changes for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Economic Development that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2402, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2402, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Ige).

SCRep. 1804 Economic Development on S.B. No. 2404

The purpose of this bill is to authorize the Department of Budget and Finance, with the approval of the Governor, to issue special purpose revenue bonds in a total amount not to exceed \$25,000,000 to assist Arkenol Inc. (Arkenol) in the construction and operation of biorefineries within the State.

Your Committee finds that Arkenol is a biorefinery development firm with development projects in California, Minnesota, and several foreign countries. Together with its business partners, Arkenol is currently considering a major investment in the State to convert one or more of Hawaii's sugar plantations into fully integrated biorefineries. The electricity and transportation fuel converted from canes or grasses in the biorefineries could be used in or exported from the State.

Your Committee finds that the proposed development by Arkenol would be in the best interest of the State, and that it is a project as defined under Part IV, Chapter 39A, Hawaii Revised Statutes.

As affirmed by the record of votes of the members of your Committee on Economic Development that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2404 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Ige).

SCRep. 1805 Economic Development on S.B. No. 2408

The purpose of this bill is to make an appropriation to support the activities of the Hawaii chapter of the Pacific Congress on Marine Science and Technology (PACON INTERNATIONAL), whose membership consists of ocean scientists, engineers, and educators. The primary activity of PACON INTERNATIONAL is to sponsor an international ocean science and technology meeting every two years.

Favorable testimony was received from the Department of Business, Economic Development, and Tourism, and the Chair and Assistant Executive Director of PACON INTERNATIONAL, and several ocean and marine researchers and educators. Your Committee learned that each conference hosted in the State attracted over seven hundred international participants, and generated over \$1,000,000 in revenues. The conference serves to highlight Hawaii's leadership role in the Pacific Basin, and provide an opportunity to demonstrate our research and technical accomplishments. The conference also provides an excellent opportunity for opening up new business opportunities and markets.

As affirmed by the record of votes of the members of your Committee on Economic Development that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2408 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Levin, Tam).

SCRep. 1806 Economic Development on S.B. No. 2707

The purpose of this bill is to make various technical amendments to the state enterprise zones law to promote international business, information technology services, and medical, health care services, and telecommunication services.

This administration bill would allow these businesses and services to qualify in an area designated as a state enterprise zone under chapter 209E, Hawaii Revised Statutes. The bill deletes eligibility under that chapter for cleaning, repair, and maintenance businesses, but not including maritime and aviation repair.

Your Committee finds that those businesses and services being added by this bill are the ones that will give the State a much needed boost in the economy and are the ones that the State has identified as being most desirable for and compatible to Hawaii's business climate. Therefore, including them in the state enterprise zone law for preferential treatment, including tax incentives, is logical and reasonable.

Your Committee has made several amendments for clarification of the definitions and made technical, nonsubstantive amendments.

As affirmed by the record of votes of the members of your Committee on Economic Development that is attached to this report, your Committee 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 referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, none.

SCRep. 1807 Economic Development on S.B. No. 2708

The purpose of this bill is to make an emergency appropriation of \$66,500 for fiscal year 1995-1996 from the Hawaii Film Facility Special Fund, Commerce and Industry (BED 102).

Your Committee supports this emergency special fund appropriation, which it believes is necessary to facilitate the appropriate implementation of the Hawaii Film Studio program for fiscal year 1995-1996. This appropriation reflects additional available receipts and an attendant commitment of increased program funding collateral to the receipt of revenues. It is in addition to the operating appropriations made for the same program by Act 218, Session Laws of Hawaii 1995.

As affirmed by the record of votes of the members of your Committee on Economic Development that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2708 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Levin).

SCRep. 1808 Economic Development on S.B. No. 3030

The purpose of this bill is to appropriate the sum of \$75,000 from the general revenues of the State, to be expended by the department of business, economic development, and tourism for the preparation and issuance of a request for proposal to provide the West Beach, Oahu complex with sea water air conditioning, and to hold a prospective bidders conference.

Your Committee finds that power savings for a large sea water air conditioning system can reach as much as eighty percent in comparison to conventional air conditioning. Hawaii has the local and technical resources to develop this project.

Your Committee believes the appropriation would assist in initiating the large-scale use of an energy resource which is abundant in the State and would benefit the residents of the State.

As affirmed by the record of votes of the members of your Committee on Economic Development that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3030 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Levin, Tam).

SCRep. 1809 Economic Development on S.B. No. 3069

The purpose of this bill is to increase from \$6,000,000 to \$10,000,000 the authorized amount of special purpose revenue bonds to assist ETV Hawaii/Elephant Television, Inc., and to extend from June 30, 1998, to June 30, 2001, the date on which the authorization to issue the special purpose revenue bonds shall lapse. This bill also authorizes the bond proceeds to be used for the benefit of a Hawaii profit as well as nonprofit corporation established by or under the auspices of ETV Hawaii/Elephant Television, Inc.

Your Committee finds that the Legislature authorized, pursuant to Act 278, Session Laws of Hawaii 1991, as amended by Act 240, Session Laws of Hawaii 1993, the issuance of special purpose revenue bonds to assist ETV Hawaii/Elephant Television, Inc., as an industrial enterprise to provide television and film industry production and training to Hawaii's residents.

Your Committee further finds that in order to facilitate such issuance in compliance with federal tax laws, it is necessary to amend the operative session laws to allow the bond proceeds to be used to assist a Hawaii profit as well as nonprofit corporation established by or under the auspices of ETV Hawaii/Elephant Television, Inc. An extension of the authorized amount and time period to issue the bonds is also appropriate due to the delay in implementation.

As affirmed by the record of votes of the members of your Committee on Economic Development that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3069 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, none.

SCRep. 1810 (Joint) Higher Education, Culture, and Arts and Economic Development on S.B. No. 2226

The purpose of this bill is to appropriate \$8,575,000 for fiscal year 1996-1997 to enable the University of Hawaii to complete the Pacific Ocean Science and Technology Building, strengthen the capability of the University in ocean technology research and education, and initiate planning and leveraging of contributions of co-sponsors for the "International Ocean Resources Development Summit".

Your Committees find that the resources found in the exclusive economic zone surrounding Hawaii have great potential for enhancing the economic productivity of the State. The combination of artificially upwelled fisheries, marine biomass plantations, strategic minerals for seabed resource ores, marine biotechnology, and industrial/recreational floating platforms shows outstanding promise for job creation in the Pacific.

Your Committees support this measure as a means of allowing the University of Hawaii to attain excellence in marine resource technology, and to work closely with the community to raise Hawaii to a world leadership role in this valuable field.

Your Committees have amended this measure by deleting the \$75,000 appropriation relating to the international ocean resource development summit. The total appropriation contained in the amended bill is \$8,500,000.

Your Committees have also made several technical, nonsubstantive changes for purposes of style and consistency.

As affirmed by the records of votes of the members of your Committees on Higher Education, Culture, and Arts and Economic Development that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2226, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2226, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.
Ayes, 8. Noes, none. Excused, 3 (Fernandes Salling, Fukunaga, Ikeda).

SCRep. 1811 Hawaiian Affairs on S.B. No. 3101

The purpose of this bill is to repeal the appropriations section of Act 200, Session Laws of Hawaii 1994, as amended by Act 11, Session Laws of Hawaii 1995, First Special Session, relating to funding the Hawaiian sovereignty elections council.

Your Committee wishes to express that it IS in favor of sovereignty. However, your Committee feels that any sovereignty movement should involve people at the grass roots level and be independent of the State.

Your Committee would like to recognize the following groups who are actively and independently working towards sovereignty.

- (1) Ka Lahui Hawai'i
- (2) Na Koa Ikaika
- (3) Ka Pakaukau
- (4) Pacific Womens Network
- (5) Peoples International Tribunal
- (6) Na 'Opio Aloha 'Aina
- (7) Nanakuli Surf Club
- (8) La'ie I Kawai
- (9) Hui Malama 'Aina 'O La'ie
- (10) Kingdom of Hawai'i ('O'ahu)
- (11) Hui 'O Waikane
- (12) Pro Kanaka Maoli Independence working group
- (13) Kingdom of Hawai'i (Kaua'i)
- (14) Malama Mo'okuauhau 'O Kukaniloko
- (15) U.H. Hawaiian Studies
- (16) Na Pua Aloha
- (17) Na Mamo Hawai'i
- (18) Puhawai Farmers Association
- (19) Center for Hawaiian Studies
- (20) Kingdom of Hawai'i (Maui)

Your Committee finds this encouraging and recommends that more groups work together and participate in this process.

Furthermore, your Committee finds that there is still much confusion and a general lack of participation by many in the Hawaiian community on the issue of sovereignty. Therefore, there needs to be more time to educate and inform the Hawaiian community on the issues, implications, complications, and parameters of sovereignty.

Your Committee believes that a vote this summer would only serve to divide the Hawaiian community rather than unite them. Furthermore, there are still unresolved legal questions about what effect this "Native Hawaiian vote" (the plebiscite) will have on future attempts to attain sovereignty.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3101 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Kawamoto).

SCRep. 1812 Agriculture, Labor, and Employment on S.B. No. 1805

The purpose of this bill is to provide conformity in retirement benefits for Class A contributory members of the Employees' Retirement System (ERS) who receive an accelerated pension accrual rate.

Specifically, the bill requires public safety investigations staff investigators to adhere to the same retirement qualifications as ERS members in the same benefit class.

Your Committee finds that Act 196, Session Laws of Hawaii 1994, enabled public safety investigations staff investigators to retire utilizing the accelerated two and one-half percent pension accrual rate but did not require that their last five years of service prior to retirement be in the capacity of a public safety investigations staff investigator. All other ERS members in this benefit class must adhere to this requirement in order to receive the same benefit.

Your Committee has amended the bill by making technical amendments for the purposes of clarity and conforming the bill to recommended drafting style.

Your Committee believes this bill corrects an inequitable situation.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1805, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1805, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Anderson).

SCRep. 1813 Agriculture, Labor, and Employment on S.B. No. 2059

The purpose of this bill is to provide a pensioners' bonus of \$14 for each year of credited service per month for a qualified retirant who has been retired for at least thirty-five years as of July 1, 1996.

Your Committee finds that the bonus proposed in this measure would provide additional money to pensioners of the Employees' Retirement System who, for the most part, are in excess of ninety years old and probably have a pension of approximately \$400 or less.

Your Committee believes that the bonus will provide qualified elderly pensioners of the Employees' Retirement System with additional financial resources.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2059 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Anderson).

SCRep. 1814 Agriculture, Labor, and Employment on S.B. No. 2060

The purpose of this bill is to allow police chaplains to receive workers' compensation benefits if injured during the performance of their duties.

Your Committee finds that under existing law, police chaplains are precluded from obtaining workers' compensation benefits. Your Committee also finds that people who serve in other voluntary capacities such as members of public boards, reserve police officers, volunteer firefighters, volunteer boating enforcement officers, and volunteer conservation and resources enforcement officers receive workers' compensation benefits.

Your Committee believes that the bill will rectify this benefit inequity in the existing law.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2060 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Solomon).

SCRep. 1815 Agriculture, Labor, and Employment on S.B. No. 2090

The purpose of this bill is to establish a Pesticide Use Revolving Fund.

The Pesticide Use Revolving Fund would receive its funding through all licensing and registration fees and charges collected by the Department of Agriculture under section 149A-13(b), Hawaii Revised Statutes, and training fees established pursuant to the bill. Moneys from the Pesticide Use Revolving Fund would be used for the establishment of training workshops, educational programs, and other services relating to pesticide instruction.

Your Committee believes that pesticide education programs should benefit directly from the fees paid by pesticide users.

Your Committee has amended the bill by adding provisions that:

- (1) Expand the authorized use of Pesticide Use Revolving Fund to include all activities and costs related to the operation of the Department of Agriculture's Pesticide Program;
- (2) Clarify that moneys expended by the Department of Agriculture from the Pesticide Use Revolving Fund for educational and training programs for the agricultural pest control and structural pest control industries are to be done on an approximate pro rata basis;
- (3) Maintain the two-tier fee schedule for the licensing of general and restricted use pesticides but increases the fees from \$10 and \$30 to \$50 and \$75 respectively;
- (4) Clarify that private applicators or other persons are subject to the penalty provisions applicable to a registrant, commercial applicator, wholesaler, dealer, retailer, or other distributor when they act in any of those capacities; and
- (5) Establish a specific period during which responses to notices of violation must be submitted.

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

In garnering testimony on pesticide-related issues, your Committee finds that the Department of Agriculture has issued licenses to sell approximately 7,268 pesticides in the State. Of these licenses, approximately 370 are for restricted-use pesticides. The current fee is \$15 for general-use pesticides and \$30 for restricted-use pesticides and the licenses are valid for three-years.

Your Committee also finds that it has been fifteen years since the last pesticide licensing fee increase and that the establishment of a \$75 fee was a compromise proposed during the 1994 legislative session when the Department of Agriculture sought to increase the pesticide licensing fees to \$200 per product per year. However, your Committee understands that Hawaii represents a relatively small market, especially for agricultural chemicals. All the crops grown here are considered minor crops and too large a fee increase may result in registrants pulling out of the Hawaiian market to the detriment of Hawaiian agriculture.

Also included in this amended measure are changes to the penalty provisions of section 149A-41(b), Hawaii Revised Statutes, that would enable the Department of Agriculture to take meaningful enforcement actions. Your Committee finds that when private applicators and other individuals distribute pesticides, or apply pesticides for a fee, they are subject to lower penalties than individuals who are licensed as dealers or commercial applicators. The bill would establish equity in enforcement responses when private applicators and other individuals act in the capacity of a dealer or commercial applicator.

Your Committee believes that the amendments contained in the bill will enable the Department of Agriculture to better regulate pesticide use in the State.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2090, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2090, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Anderson).

SCRep. 1816 Agriculture, Labor, and Employment on S.B. No. 2152

The purpose of this bill is to authorize the University of Hawaii and the Department of Education to establish custodial accounts on behalf of employees for the deposit of annuity payments.

Your Committee finds that the State of Hawaii remains the sole state where public education employees are not offered the opportunity to establish custodial accounts, such as mutual funds, into which they may directly make contributions. Your Committee further finds that the industries which offer these custodial accounts are regulated by both federal and state laws and agency rules.

Testimony submitted by the Department of Education and University of Hawaii expressed concerns about state liability for the amounts deposited into custodial accounts and the performance of any investment products connected with the accounts. Thus, your Committee has amended this bill by inserting provisions which hold the State, the Department of Education, and the University of Hawaii harmless from liability for the sums invested in or the performance of such custodial accounts.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2152, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2152, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Anderson).

SCRep. 1817 Agriculture, Labor, and Employment on S.B. No. 2278

The purpose of this bill is to appropriate \$1,000,000 to the Hawaii Agriculture Research Center (HARC), otherwise known as the Hawaiian Sugar Planters' Association.

Your Committee finds that the HARC provides not only necessary agricultural research for sugarcane, but many other agricultural products as well. Funding the HARC will provide the various components of the State's agricultural industry with the opportunity to be more productive and, therefore, more successful.

Your Committee has amended the bill by making a stylistic amendment for the purpose of clarity.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2278, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2278, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Anderson).

SCRep. 1818 Agriculture, Labor, and Employment on S.B. No. 2279

The purpose of this bill is to impose the income tax upon pensions, annuities, and retirement allowances over \$75,000.

Your Committee finds that generally all retirement income has been exempt from Hawaii income tax, except the earnings on amounts attributable to an employee's contributions to a private employer's pension plan distributed at retirement. Your Committee further finds that the taxation of this retirement income will generate approximately \$2.1 million in additional state revenues.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2279 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Anderson).

SCRep. 1819 Agriculture, Labor, and Employment on S.B. No. 2487

The purpose of this bill is to clarify the authority of the ombudsman to report any breach of duty or misconduct by any officer or employee of an agency to the appropriate authorities without notice to the offender.

Your Committee finds that a possible ambiguity arises when this bill is read in conjunction with section 96-11, Hawaii Revised Statutes, which requires notice to the agency or person prior to the Ombudsman rendering an opinion or recommendation.

Your Committee believes consulting with the possible offender could hinder investigations.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2487 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Anderson).

SCRep. 1820 Agriculture, Labor, and Employment on S.B. No. 2539

The purpose of this bill is to convert eight civil service exempt positions of the Department of Labor and Industrial Relations' Hawaii Career Information Delivery System to civil service status.

Your Committee finds that the services that the Hawaii Career Information Delivery System provide are well utilized by its target audience--the students of the State. Ensuring stability for the program by conferring civil service status to its employees is in the best educational and vocational interests of the State.

Your Committee has amended the bill by inserting language that ties the salary level of a civil service exempt employee who is converted to civil service status to the salary level of other civil service employees with similar qualifications.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2539, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2539, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Anderson).

SCRep. 1821 Agriculture, Labor, and Employment on S.B. No. 2679

The purpose of this bill is to amend the law on how agricultural loans approved by the Department of Agriculture are secured.

Specifically, the bill deletes the term of "second mortgage" and replaces it with "junior mortgage."

Your Committee finds that under existing law, section 155-11(b)(1), Hawaii Revised Statutes, allows the Department of Agriculture to take "a second mortgage when any prior mortgage does not contain provisions which might jeopardize the security position of the department or the borrower's ability to repay." In securing agricultural loans made by the Department of Agriculture, there may be circumstances in which real property with a second mortgage already attached may have sufficient equity to be used as collateral.

Your Committee believes that the technical amendment contained in the bill will give the Department of Agriculture the flexibility to accept any junior lien position as security on a loan; provided there is sufficient equity and no prior liens exist on the property which may jeopardize the security position of the Department.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2679 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Anderson).

SCRep. 1822 Agriculture, Labor, and Employment on S.B. No. 2682

The purpose of this bill is to amend the laws relating to the State's plant and non-domestic animal quarantine requirements.

Specifically, the bill:

- (1) Authorizes the Department of Agriculture to assess user fees for import permits;
- (2) Excepts from the definition of "algae" in section 150A-2, Hawaii Revised Statutes, algae used as food or for food preparation;
- (3) Excepts from the definition of "fungus" in section 150A-2, Hawaii Revised Statutes, fungus used as food or for food preparation;
- (4) Clarifies what constitutes importation into the State;
- (5) Authorizes the release of articles quarantined in a biocontrol containment facility upon the issuance of a permit approved by the Board of Agriculture; and
- (6) Authorizes the Department of Agriculture to issue short-term special permits on a case-by-case basis that allow for the possession or importation of an animal that is not on the list of prohibited, restricted, or conditionally approved animals; provided that the importer complies with the requirements established by the Board of Agriculture.

Your Committee finds that the State's existing plant and non-domestic quarantine laws provide the Board of Agriculture with little flexibility to decide on the importation of certain plants, animals, and microorganisms, thereby making importation overly cumbersome.

Your Committee has amended the bill by:

- (1) Expanding the Department of Agriculture's authority to assess user fees by allowing the Department to assess user fees for inspections related to import permit conditions that are established by rule;
- (2) Clarifying that in issuing special permits for the importation of certain animals or microorganisms into the State for scientific research, the use of the animal or microorganism in the scientific research shall not be detrimental to humans, or the agriculture or environment of the State;
- (3) Clarifying that the issuance of short-term special permits for animals not on the list of prohibited, restricted, or conditionally approved animals shall be for the purpose of filming, performance, or exhibitions only; and

- (4) Making technical, nonsubstantive amendments to conform the bill to existing statutory language and proper drafting style.

Your Committee believes that the bill, as amended, would allow the Department of Agriculture to more effectively manage the State's plant and non-domestic animal quarantine program.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2682, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2682, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Anderson).

SCRep. 1823 Agriculture, Labor, and Employment on S.B. No. 2683

The purpose of this bill is to enable the Department of Agriculture to certify honey bee export shipments when health certificates are required as a condition of export.

Your Committee finds that certain honey bee importing countries require exporting countries to issue permits to producers who export honey bee queens. By enabling the Department of Agriculture to certify honey bee export shipments, the State would satisfy the requirements of these importing countries.

Your Committee believes that this bill will allow honey bee producers to export honey bee queens more expediently, thereby increasing economic opportunity within the State.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2683 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Anderson).

SCRep. 1824 Agriculture, Labor, and Employment on S.B. No. 2811

The purpose of this bill is to authorize the creation of a new deferred compensation retirement plan for part-time, temporary, and seasonal or casual employees who are not eligible to participate in the State's existing deferred compensation plan or employees' retirement system.

Your Committee finds that this measure provides an opportunity for the State to save approximately \$3 million annually in its contributions for social security taxes. Since employees eligible for the new plan will no longer be required to contribute to social security, there will be no employee contributions that the State, as employer, would otherwise be required to match.

In addition, this measure provides for a new employee benefit to the growing number of part-time, temporary, and seasonal or casual employees in Hawaii at no additional cost to the State.

Your Committee notes that similar plans have been successfully established and administered in other states such as Georgia and Florida. The investment product offered is generally a type of guaranteed interest savings fund such as a treasury fund or FDIC insured fund. Upon termination of employment, if the amount of money in the account is above, for example, \$3,500, the employee may leave the money in the account or withdraw it; otherwise the money will be refunded to the employee.

Your Committee has made several technical, nonsubstantive changes to this measure for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2811, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2811, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Anderson).

SCRep. 1825 Agriculture, Labor, and Employment on S.B. No. 2941

The purpose of this bill is to establish a Commercial Fisheries Special Fund.

The Commercial Fisheries Special Fund would receive its funding through various fees and penalties associated with commercial fishing activities and would be administered by the Department of Land and Natural Resources. Moneys from the Commercial Fisheries Special Fund would be used for the conservation, improvement, monitoring, and management of commercial fishing in the State.

Your Committee believes that commercial fishing programs should benefit directly from the fees paid by commercial fishers.

Your Committee has amended the bill by making technical, nonsubstantive amendments for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2941, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2941, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 1 (Anderson).

SCRep. 1826 Agriculture, Labor, and Employment on S.B. No. 3010

The purpose of this bill is to establish a Dairy Industry Revolving Fund.

The Dairy Industry Revolving Fund would receive its funding through all application and licensing fees collected by the Department of Agriculture under Chapter 157, Hawaii Revised Statutes.

Your Committee finds that the State's Milk Control Branch is funded via a direct assessment of the dairy industry. Under existing law, the assessments from the dairy industry are deposited in the General Fund and subsequently appropriated back to the Milk Control Branch each year through the budgeting process. By establishing a Dairy Industry Revolving Fund, the State would eliminate an otherwise time consuming accounting procedure.

Your Committee has amended the bill by making technical, nonsubstantive amendments to conform with recommended drafting style and procedure.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3010, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3010, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 1 (Anderson).

SCRep. 1827 Agriculture, Labor, and Employment on S.B. No. 3063

The purpose of this bill is to require the Employees' Retirement System (ERS) to assist the Hawaii Public Employees Health Fund (PEHF) in disbursing Medicare Part B insurance premium reimbursements to retirants and beneficiaries.

Your Committee finds that the intent of the measure is to streamline the payment process and save the PEHF substantial postage costs.

According to testimony received by your Committee, the ERS and the PEHF mutually agreed that as written, the bill would actually end up costing the ERS significantly in the areas of personnel time and computer upgrade costs. Both parties agreed that by allowing the PEHF to access the ERS' retirant and beneficiary records, the PEHF could broker an agreement with a financial institution to effectuate an electronic funds transfer, thus accomplishing the original intent of the bill.

Based on the testimony submitted, your Committee has amended the bill to provide the PEHF with access to the ERS' retirant and beneficiary records.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3063, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3063, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.

Ayes, 3. Noes, none. Excused, 2 (Solomon, Anderson).

SCRep. 1828 Agriculture, Labor, and Employment on S.B. No. 3079

The purpose of this bill is to promote expanded employee ownership and participation in Hawaii businesses. It requires the department of business, economic development, and tourism, among other things, to assist owners and employees of Hawaii businesses in establishing employee ownership and participation plans by providing technical assistance, information, and access to sources of financing.

Your Committee finds that the substance of this measure was included in Chapter 213E, Hawaii Revised Statutes, but that this chapter was repealed in 1993 when its sunset provision was not extended by the Legislature.

Your Committee nevertheless recognizes the continued need to support and encourage employee ownership and participation in Hawaii businesses. A growing body of research and practice indicates that firms which successfully implement employee ownership plans significantly increase employee job satisfaction, productivity, service quality, and profitability, while also reducing absenteeism and workers' compensation costs.

Your Committee has made several technical, nonsubstantive changes to this measure for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3079, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3079, S.D. 1, and be referred to the Committee on Economic Development.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Anderson).

SCRep. 1829 Agriculture, Labor, and Employment on S.B. No. 3224

The purpose of this bill is to provide dislocated employees with a longer period of advanced warning and dislocated employee benefits when a business either closes or moves away.

Specifically, the bill extends the advance written notice requirement that a business must give prior to closing or relocating from forty-five to ninety days and increases the number of days that an affected employee is eligible for dislocated employee benefits from forty-five to ninety days.

Your Committee has amended the bill by:

- (1) Amending the definitions of "closing" and "partial closing" by deleting the requirement that closing or relocation of a business must be related to a financial cause in order for a dislocated employee to collect benefits;
- (2) Clarifying in the proposed language that only qualified dislocated employees are to receive dislocated employee benefits; and
- (3) Making technical amendments to conform the bill to recommended drafting style.

Your Committee believes that the bill will provide dislocated employees with adequate prior notice and sufficient benefits to assist them in making the transition another form of employment.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3224, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3224, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Anderson).

SCRep. 1830 (Joint) Economic Development and Communications and Public Utilities on S.B. No. 2403

The purpose of this bill is to authorize the department of budget and finance, with the approval of the governor, to issue special purpose revenue bonds in a total amount not to exceed \$150,000,000 for multi-project programs for the local furnishing of electric energy by electric utility companies serving the general public. This bill also authorizes the issuance of refunding special purpose revenue bonds in whatever principal amounts the department of budget and finance shall determine to be necessary to refund the special purpose revenue bonds authorized by this bill.

Your Committees find that the issuance of special purpose revenue bonds and refunding special purpose revenue bonds under this bill will assist electric utilities in obtaining lower interest rate bond financing for capital improvement projects. This savings will directly benefit consumers since the cost of financing is generally factored into the rates that they pay. The bonds will also be risk free to the State, since they are not secured by the general credit of the counties or the revenues and taxes of the State, but rather solely by the utility companies.

Your Committees support this bill as being in the public interest, and believe that it will promote the public health, safety, and general welfare of the State.

Your Committees have made several technical, nonsubstantive amendments to this measure for purposes of style and clarity.

As affirmed by the records of votes of the members of your Committees on Economic Development and Communications and Public Utilities that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2403, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2403, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.
Ayes, 9. Noes, none. Excused, 2 (Chumbley, Levin).

SCRep. 1831 (Joint) Economic Development and Ecology and Environmental Protection on S.B. No. 2407

The purpose of this bill is to appropriate moneys for fiscal year 1996-1997 to the Department of Business, Economic Development, and Tourism (DBEDT) to implement the Permit Process Facilitation Act, which is codified as Part IV of Chapter 201, Hawaii Revised Statutes.

This bill also authorizes DBEDT to increase its present permitting fees to supplement the moneys appropriated by this bill.

Your Committees find that the consolidated permit application process, permit information services, and streamlining activities established under the Permit Process Facilitation Act, codified as Part IV of Chapter 201, Hawaii Revised Statutes, if implemented, would significantly contribute to expediting permits for new and existing businesses, and would promote the preservation and efficient management of the State's resources.

As affirmed by the records of votes of the members of your Committees on Economic Development and Ecology and Environmental Protection that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2407 and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.
Ayes, 6. Noes, none. Excused, 2 (Chumbley, Ikeda).

SCRep. 1832 (Joint) Economic Development and Ecology and Environmental Protection on S.B. No. 3108

The purpose of this bill is to provide a realistic framework under which the department of business, economic development, and tourism (department) may act to assist the State's emerging recycling industry. This bill dissolves the governing board of the clean Hawaii center (center) and authorizes the department to assign committees to provide advice and direction for the operation of the center until its closure in 1999.

This bill also authorizes the department of health to expend moneys from the environmental management special fund through a simple transfer of funds to the counties and the department. It also requires moneys received by the center in the form of direct transfers of funds by federal, county, or other state agencies to be deposited into the clean Hawaii fund.

Your Committees find that the center was created by the legislature in 1994 to work in partnership with business and government to develop and expand commercial markets for recyclable materials, recycled content products, and to facilitate recycling and environmental business and technology development. It was given very ambitious waste diversion goals, which the legislature hoped would be supported with wide-ranging business development incentives.

Your Committees find, unfortunately, that administrative and budgetary restrictions have constrained the ability of the center's governing board to properly direct the policy, operations, and budget of the center. The State's fiscal problems have resulted in the center's staff being limited to one person and its budget allocation being severely cut.

As a result of these restrictions, it has become clear that the original goals and objectives of the center cannot be met under the current statutory framework.

Your Committees believe, however, that the mission of the center remains of vital importance to the economic and environmental future of the State. In light of limited landfill options and the shortage of job opportunities in the State, the value of recycling and the cost savings to be realized by diverting recyclable materials are more important now than ever.

Your Committees, therefore, strongly support this measure as a means of streamlining the center, while preserving its ability to facilitate recycling and environmental business and technology development.

Your Committees have amended this bill by:

- (1) Establishing an exempt staff position for the center;
- (2) Requiring the department to provide annual reports to the legislature regarding the operations of the center; and
- (3) Requiring neighbor island representation on any committees appointed by the department to advise the center.

Your Committees have also made several amendments in order to conform the measure with general legislative drafting form, and several technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the records of votes of the members of your Committees on Economic Development and Ecology and Environmental Protection that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 3108, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 3108, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.
Ayes, 6. Noes, none. Excused, 2 (Ikeda, Matsuura).

SCRep. 1833 Economic Development on S.B. No. 3248

The purpose of this bill is to repeal certain administrative rules relating to ocean recreation management.

Your Committee finds that the Department of Land and Natural Resources has managed and administered the ocean-based recreation and coastal areas programs of the State in a manner that attempts to balance important economic, environmental, and public safety concerns. As with any regulatory regime affecting parties that have conflicting interests, however, there are always those who believe that the system is inequitable and overly burdensome.

Your Committee acknowledges the testimony of many witnesses who believe that the repeal of the administrative rules referenced in this measure is in the best interest of Hawaii's small businesses. Your Committee believes that a compromise can be reached which will benefit all parties who have an interest in the State's ocean recreation and coastal areas.

Your Committee has amended this measure by deleting all existing language and by substituting language that:

- (1) Provides for the full transferability of all commercial use and operator permits issued for commercial thrill craft and parasailing activities upon the payment of a business transfer fee in an amount determined by the department of land and natural resources or an amount equal to ten per cent of the transfer price, whichever is greater; provided that no more than one transfer per year shall be authorized with respect to any given permit;
- (2) Authorizes the department of land and natural resources to suspend a permit without hearing for any activity which does or may endanger the health or safety of passengers or the public; provided that the permit holder is afforded a hearing within fifteen days of the date of suspension, after which the suspension shall either be lifted or instituted for a period not longer than one year, or the permit shall be revoked; and
- (3) Authorizes use permits to be issued at public auction, and provides that they shall be valid for a period of five years, subject to a five year renewal period, following which they will be again put up for auction.

As affirmed by the record of votes of the members of your Committee on Economic Development that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3248, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3248, S.D. 1, and be referred to the Committee on Planning, Land and Water Use Management.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, none.

SCRep. 1834 Economic Development on S.B. No. 3262

The purpose of this bill is to expand the State's capital loan program to small businesses to include business concerns in counties with a population of less than 100,000, which have suffered from catastrophic natural disasters.

Your Committee is concerned particularly with the island of Kauai which has suffered tremendous losses and is still recovering from Hurricane Iniki in 1992. This bill is intended to give those businesses devastated by natural disaster an opportunity to rebuild and to start over again by receiving an infusion of capital from the State in the form of a business loan at favorable payback terms.

Your Committee has amended this bill:

- (1) To clarify that businesses qualify if they cannot obtain disaster relief loans from the federal Small Business Administration, and to clarify the purpose section accordingly;
- (2) To add a drop dead provision of one year from the effective date of the Act; and
- (3) To make technical, nonsubstantive amendments.

As affirmed by the record of votes of the members of your Committee on Economic Development that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3262, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3262, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, none.

SCRep. 1835 Judiciary on S.B. No. 2699

The purpose of this bill is to expedite the determination of paternity by allowing the natural father to voluntarily acknowledge paternity immediately prior to or after the child's birth.

Your Committee finds that determination of paternity is a crucial factor affecting a child's development. The presence of a father in a child's life has an important impact in terms of role model behavior, and can also provide a positive economic benefit for the child. The simplified paternity acknowledgment mechanism in this bill will also help the State comply with federal regulation in this area.

Your Committee has amended this bill by:

- (1) Requiring that the written acknowledgment be authenticated by a notary, rather than either a notary or a witness;
- (2) Deleting the provision requiring a staff member at the facility from having to speak personally with the mother and the alleged father about paternity establishment;
- (3) Deleting the responsibility of the Child Support Enforcement Agency to provide materials, training, assessment, and other services in the voluntary acknowledgment process;
- (4) Specifying that the written acknowledgment provides a rebuttable presumption of paternity; and
- (5) Deleting the requirement of an expedited judicial process for the establishment of paternity and concomitant child support orders in federal Title IV-D cases.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 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 referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 2 (McCartney, Anderson).

SCRep. 1836 Judiciary on S.B. No. 2883

The purpose of this bill is to provide a mechanism to recover or waive compensation for criminal injuries to which a recipient was not entitled.

Your Committee finds that the criminal injuries compensation commission was established under chapter 351, Hawaii Revised Statutes, to provide compensation to victims of certain criminal acts, or dependents of deceased victims, as well as for the indemnification of private citizens for personal injury or property damage suffered in preventing a crime or apprehending a criminal. However, the commission currently does not have a mechanism to waive or aggressively pursue the recovery of compensation when a victim has been overpaid because of either office error or fraud.

Your Committee finds that this bill provides the necessary enforcement mechanism to recover overpayments by holding the recipient liable for the excess amounts, unless the commission determines that the overpayment was received without fault and its recovery would be contrary to equity and good conscience. The criminal injuries compensation commission testified that there have been a number of cases in which the commission pursued overpayments in situations in which it would be equitable to grant a waiver. Your Committee finds that this bill would allow the commission to close those cases in which a waiver would be more equitable and to cease recovery efforts.

In addition, this bill allows the commission to withhold future compensation in cases in which a waiver does not apply, and authorizes the recovery of overpaid compensation in a civil suit filed by the attorney general. While the number of cases that are affected by these amendments are few in number, your Committee finds that this bill gives the commission the necessary tools to operate more efficiently.

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

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2883, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2883, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 2 (McCartney, Anderson).

SCRep. 1837 (Joint/Majority) Judiciary and Transportation and Government Affairs on S.B. No. 2976

The purpose of this bill is to establish traffic violations computer system and automated citation system revolving funds.

In particular, the traffic violations computer system revolving fund, to be established by the Administrative Director of the Courts, is to be used for consulting and related expenses in selecting and implementing upgrades in a traffic violations computer system, purchasing hardware and software for that system, and for other expenses relating to new technology in traffic enforcement. The automated citation system revolving fund, to be established by the City and County of Honolulu, is to be used for similar expenses for implementing an automated citation system.

In addition, this bill also increases the driver's abstracts fee from \$5 to \$7, of which \$5 of that amount is to be deposited in the general fund and the remainder in the traffic violations computer system revolving fund. Finally, the bill imposes a new administrative fee of \$5 for any fine or forfeiture, to be collected upon conviction or upon bail forfeiture with respect to any person charged with a violation of state or county traffic laws. Of that \$5 fee, half is to be deposited into each of the new revolving funds established by the bill.

Your Committees agree with the intent of this Judiciary administration bill, namely, to improve the Judiciary's traffic violations information system. Your Committees find that this system has come under criticism in recent years for not supporting the operational needs of the courts. For example, the existing data structure has been found to be poorly positioned to meet the current and future needs of the district courts, the support network for information exchange among the Judiciary and other agencies is deficient and has hampered the effective utilization of court staff and resources, and the fragmented system has made the operational workflow for traffic and criminal cases difficult and unnecessarily complex.

Your Committees find that the new system proposed in this bill allows the Judiciary to address the need to replace the existing system, as recommended in the Judiciary's strategic implementation plan for court systems. The existing system is the result of years of applying procedural and policy changes to meet the changing needs of the courts, while complying with statutory amendments without assessing the situation from a long-term or larger perspective. The resulting piecemeal and incremental approach has placed the courts in a difficult position to respond to future changes, resulting in an inordinately complex and rigid automated traffic system.

Upon further consideration, however, your Committees have amended this bill by:

- (1) Amending the traffic violations computer system revolving fund in section 1 of the bill to provide that the moneys to be deposited into that fund are the portion of the fee imposed for driver's abstracts under section 287-3(a),

Hawaii Revised Statutes, rather than the portion of the administrative fee imposed under section 291C-17, Hawaii Revised Statutes;

- (2) Deleting the automated citation system revolving fund in section 1 of the bill;
- (3) Increasing the driver's abstract fee from \$7 to \$10 in section 2 of the bill;
- (4) Deleting section 3 of the bill, which amended section 291C-171, Hawaii Revised Statutes, to establish new administrative fees;
- (5) Renumbering the remaining sections and making other technical, nonsubstantive changes for the purposes of style and clarity; and
- (6) Amending section 5 of the bill (renumbered as section 4), by deleting the language referring to the repeal of the administrative fee and reinstatement of the abstract fee, and substituting language reenacting the existing statutory language in section 287-3, Hawaii Revised Statutes.

As affirmed by the records of votes of the members of your Committees on Judiciary and Transportation and Government Affairs that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2976, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2976, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.
Ayes, 9. Noes, 1 (Anderson). Excused, 1 (Chumbley).

SCRep. 1838 (Joint) Judiciary and Hawaiian Affairs on S.B. No. 3271

The purpose of this short form bill is to clarify what constitutes a breach of trust claim for which individual Hawaiian home lands trust beneficiaries may be awarded actual damages or for which corrective action may be required.

Your Committees, at the outset, wish to acknowledge the outstanding efforts of the Hawaiian Home Lands Trust Individual Claims Review Panel ("panel") thus far. The individual claims resolution process was established five years ago as part of an overall plan to address certain breaches of the Hawaiian home lands trust occurring between August 21, 1959 and June 30, 1988. Since the inception of the panel, approximately four thousand three hundred claims from two thousand eight hundred individuals have been filed with the panel. Your Committees wish to commend the panel on its diligent work in resolving these claims. Your Committees also wish to encourage the executive departments that are currently reviewing the panel's proposed administrative rules to expedite their review to allow the panel to proceed with its important work.

While your Committees recognize the significant achievements of the panel, however, your Committees are nevertheless concerned that the panel may be departing from the original legislative intent underlying the creation of the individual claims resolution process. As originally envisioned by the Legislature, the panel was intended to evaluate and make recommendations only with respect to those claims that are unique to an individual claimant. These individual claims should arise from acts or omissions of a state employee in implementing the program to make homesteads available to a particular individual, such as improper notice to an individual or the use of incorrect eligibility tests.

Your Committees therefore find that the panel should not be entertaining claims for damage or corrective action caused by breaches of trust common to all beneficiaries, such as the allegation of "less than optimal" management of trust resources. Moreover, under the original intent and language of the existing law, damages for individuals are limited to direct, out-of-pocket loss. No award is made for consequential damages. Finally, as originally intended, the panel should not be resolving claims where a remedy for the claim was or is provided elsewhere.

Your Committees further find that the panel departed significantly from its statutory authority when, on June 27, 1995, the panel issued its "Findings of Fact and Conclusions of Law" in In re Department of Hawaiian Home Lands' Homestead Production: August 21, 1959 - June 30, 1988; HCO Special Proceeding 1. The panel concluded that the Department of Hawaiian Home Lands breached its fiduciary obligation to all applicants by failing to produce the additional homesteads. In particular, the panel concluded as follows:

85. As noted collectively in these Findings of Fact, the trust management failed to implement optimal management practices in each year during the analysis period August 21, 1959, through June 30, 1988. Therefore, each person who applied to DHHL for a homestead in any year during that period was subject to less than optimal management practices. . . .

The panel concluded that the department is liable to individual beneficiaries who have asserted wait list claims. Hearings to determine the appropriate damages for the individual claimants were to have commenced in January 1996.

Your Committees find, however, that the manner in which the panel has addressed these wait-list claims exceeds the original scope of the panel's authority. The allegation that the department failed to implement optimal management practices has already been addressed in the trust settlement contained in Act 14, Special Session Laws of 1995. According to the panel's 1996 report to the Governor and the Legislature, the largest number of claims are from applicants for homestead land; seventy-four per cent of the total number of claims involve the length of time applicants have been waiting to receive homesteads. Thus, nearly three quarters of the panel's entire caseload consists of wait-list claims that exceed the original scope of the panel's authority.

Your Committees further note that the original bill sought to impose a specific dollar amount of actual damages which may be awarded to any individual claimant, and made an appropriation in the Hawaiian home lands trust fund. Your

Committees have deleted these provisions, since your Committees believe that the issue of whether or not to impose a cap on damages and appropriate funds falls more appropriately within the purview of the Committee on Ways and Means.

Finally, your Committees note that the history of the Hawaiian homes trust has been a tragic one. More than seventeen thousand applicants have been on waiting lists for over thirty years. Fewer than five thousand actually reside on homesteads on approximately twenty per cent of the homestead land base. Many applicants have died waiting for a parcel of land that never materialized. Many of those who were able to finally obtain land are currently waiting for such basics as irrigation water and needed infrastructure. The intended beneficiaries of the Hawaiian home lands trust have indeed suffered significant financial losses and years of missed opportunities.

Concerns have been raised that through this bill, the State, in rushing to limit its financial liability, appears to be denying native Hawaiians the economic costs that they have incurred as a result of a breaches of trust committed by the State. The State is required to uphold the highest standards of a fiduciary in dealing with its beneficiaries. Under Article XII, section 2 of the Hawaii Constitution, the State agreed "that the spirit of the Hawaiian Homes Commission Act looking to the continuance of the Hawaiian homes projects for the further rehabilitation of the Hawaiian race shall be faithfully carried out." Nevertheless, the State, it is argued, has broken that solemn promise countless times. This bill, by precluding nearly three-quarters of the outstanding cases before the panel, works further injury on native Hawaiians and is therefore morally wrong and inherently unfair.

Your Committees are deeply concerned about past abuses of the Hawaiian home lands trust, and acknowledges the patience and generosity of generations of beneficiaries in their long wait for justice to be served. The \$600,000,000 settlement act passed last year, however, provided a legislative remedy for claims arising from the alleged mismanagement of trust resources. Section 4 of Act 14, Special Session Laws of Hawaii 1995, specifically provided that the passage of that Act was in full satisfaction and resolution of all controversies at law and equity arising out of or in any way connected with the management, administration, supervision of the trust, or disposition by the State or any governmental agency of any Hawaiian home lands between August 21, 1959 and July 1, 1988. The intent of chapter 674, Hawaii Revised Statutes, is that the panel should not consider claims for which a remedy is provided elsewhere, including the remedy provided under Act 14.

Nor is this bill intended as a limitation of remedies; the intent is simply to clarify the original legislative intent with respect to the individual claims resolution process used by the panel, to place that process "back on track", and to expedite the panel's review of claims. While your Committees are sympathetic to the continuing problems facing the beneficiaries of the Hawaiian home lands trust, your Committees reiterate that the original scope of the individual claims resolution process includes only those acts or omissions by a state employee in the implementation of the program to make homesteads available which affected the applicant in particular, not claims for damages or corrective action caused by breaches of trust common to all beneficiaries.

Your Committees believe that clarifying and reaffirming the original scope of the individual claims resolution process will avoid the unproductive use of the panel's and department's resources by effectively rendering moot approximately three-fourths of the panel's caseload, and will preclude unnecessary frustrations, false hopes, and further delays for individual beneficiaries.

Upon further consideration, your Committees have therefore amended this bill to specify that a breach of trust claim for which individual Hawaiian home lands trust beneficiaries may be awarded actual damages or for which corrective action may be required under chapters 673 and 674, Hawaii Revised Statutes, cannot be a claim that is granted a remedy under Act 14, Special Session Laws of Hawaii 1995, and to clarify how actual damages are to be estimated and corrective actions developed to resolve each claim of breach which is established pursuant to chapters 673 and 674.

Accordingly, your Committees have amended the bill by deleting the contents of the bill and inserting the following:

- (1) Amending sections 674-1 (purpose), 674-2 (definitions of "actual damages" and corrective action"), 674-7 (review by panel), and 674-16(a) (waiver of immunity), Hawaii Revised Statutes, by deleting the words "in the management and disposition of trust resources" and adding the following new language: "with respect to an individual beneficiary in the implementation of any program administered by the department to make Hawaiian home lands available to a native Hawaiian". The purpose of these amendments is to underscore that the scope of the individual claims resolution process includes only those acts or omissions by a state employee in the implementation of the program to make homesteads available which affected the applicant in particular. Your Committees find that these breaches are distinct from a breach based on the "management and disposition of trust resources" which affected the class of beneficiaries in general;
- (2) Further amending the definition of "actual damages" to exclude expected future losses, foregone opportunity costs, and interest, in addition to noneconomic and consequential damages;
- (3) Amending section 674-6, Hawaii Revised Statutes, to provide that rules adopted to implement chapter 674 are exempt from the public notice and public hearing requirements of the Hawaii Administrative Procedure Act;
- (4) Amending section 674-14, Hawaii Revised Statutes, to extend the time for the panel to prepare a final report to be transmitted to the governor and the legislature by one additional year, from twenty days prior to the convening of the 1997 to the 1998 regular legislative session;
- (5) Amending section 674-15, Hawaii Revised Statutes, relating to limitations on award of compensation or corrective action, to specifically include Act 14, Special Session Laws of 1995, as a law under which no claim may be made under chapter 674 for which a remedy was or is already provided. Your Committee finds that the \$600,000,000 settlement act that provided a legislative remedy for claims arising out of alleged mismanagement of trust resources, Act 14, Special Session Laws of Hawaii 1995, is a legislative remedy that bars the panel from making further awards for claims arising from alleged trust mismanagement;

- (6) Adding a new uncodified section to state the legislative intent that the approach to establishing liability contained in the panel's June 27, 1995 "Findings of Fact and Conclusions of Law" in In re Department of Hawaiian Home Lands' Homestead Production: august 21, 1959 - June 30, 1988, HCO Special Proceeding 1, before the panel, exceeds the scope of the panel's mandate. The intent of this section is to nullify any determination of liability on an individual claim to the extent that liability was based on the panel's June 27, 1995 "Findings of Fact and Conclusions of Law". In order to establish liability, the individual claimant must identify the particular acts or omissions of the department which gave rise to damages sustained by the claimant individually. Your Committee finds that this section precludes the panel from establishing liability for the individual claimant based solely on a generalized finding of a breach of management of trust resources;
- (7) Adding a severability clause; and
- (8) Adding an effective date of July 1, 1996.

As affirmed by the records of votes of the members of your Committees on Judiciary and Hawaiian Affairs that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 3271, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 3271, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.

Ayes, 6. Noes, none. Excused, 4 (Chumbley, Levin, Matsunaga, Anderson).

SCRep. 1839 Education on S.B. No. 2222

The purpose of this bill to to authorize the adult and community education schools to accept students from traditional high school programs, and to charge adult students tuition for basic education classes unless they are indigent.

Your Committee finds that certain high school students want to receive a high school education, yet they may be faced with certain temporary life situations that prohibit them from completing their education in the traditional high school setting. Your Committee further finds that the department of education is required to provide alternative educational settings for these students, who may be better able to complete their high school education in adult general education programs. Your Committee also believes that the adult and community education program should be authorized to collect tuition to assist with the State's support of these programs, since federal funds provide a limited percent of the total funds needed to operate these programs.

Your Committee has amended this bill by making technical nonsubstantive changes for the purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2222, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2222, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee..

Ayes, 5. Noes, none. Excused, none.

SCRep. 1840 Education on S.B. No. 2310

The purpose of this bill, as received by your Committee, is to appropriate \$2,852,388 for seventy-seven regular classroom teachers to accommodate student enrollment increase requirements.

Your Committee finds that the department of education has been mandated to deploy teachers from the state and district offices to the schools to assist with the demand for additional classroom teachers. Your Committee further finds that the department projects that student enrollment increases for the 1996-1997 school year require additional funds and positions for classroom teachers to meet these enrollment increases.

Your Committee has amended this measure by deleting the dollar amount and position numbers for further consideration by the Committee on Ways and Means.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2310, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2310, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.

Ayes, 5. Noes, none. Excused, none.

SCRep. 1841 Education on S.B. No. 2765

The purpose of this bill is to allow the department of education to collect tuition for intersession programs of year-round schools.

Your Committee finds that more public schools are adopting year-round calendars that offer intersession programs as supplementary education between the regular academic sessions. Your Committee further finds that these intersession

programs are similar to summer school programs and thus the department should have the same authority to collect fees in support of these programs.

Your Committee has amended this measure by making technical, nonsubstantive changes for the purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2765, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2765, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, none.

SCRep. 1842 Housing on S.B. No. 2096

The purpose of this bill, based on 1989 Illinois legislation, establishes the Home Ownership Made Easy (HOME) program to provide potential home buyers with a method of accumulating funds sufficient for a down payment on a home. A person may participate in the program by making monthly, quarterly, or semiannual deposits with the state comptroller or through a payroll deduction plan administered by the home buyer's employer. At the direction of the participant, the state comptroller invests the moneys in one or more of the following ways: by depositing the moneys into single money market mutual funds or accounts; by purchasing bonds issued by the Hawaii housing finance and development corporation; or by depositing the moneys in the HOME investment pool.

Housing Finance and Development Corporation (HFDC) and the Department of Accounting and General Services (DAGS) submitted testimony in support of the concept and intent of the proposed measure.

HFDC testified that there is a HOME Program which was created under the Home Investment Partnerships Act of the National Affordable Housing Act of 1990, and a similar savings program which establishes the Individual Housing Accounts administered by the Department of Taxation.

Your Committee understands that HFDC does not have the authority to issue bonds for the purposes specified in the bill. Furthermore, HFDC is unclear as to whether these bonds would be taxable or tax-exempt which leads to certain arbitrage and public purpose issues that will need to be addressed.

On the other hand, DAGS recommended that the bill be combined with section 235-5.5, Hawaii Revised Statutes (HRS), which permits the establishment of individual housing accounts to help first time buyers to save funds for the purchase of their homes. The program, under the Department of Taxation, is administered through private financial institutions and thereby avoids the need for administrative and operating funding by the State especially during this tight economic times. In addition, based on information of 1993 tax returns filed from the Department of Taxation, 333 returns had claims for housing deduction totaling \$1.1 million.

Your Committee finds that placing the participant's money into higher yielding accounts would prove to be more productive and would enable more families to qualify sooner for home mortgages, thus making home ownership an achievable goal.

In light of this, your Committee has amended this measure by deleting the language of the bill in its entirety and inserting in lieu thereof language which:

- (1) States in the findings and purpose section that section 235-5.5, HRS, is amended to provide potential home buyers with a method of accumulating sufficient funds for a downpayment on a home by making monthly, quarterly, or semiannual deposits with a financial institution, or through a payroll deduction plan administered by the home buyer's employer; and
- (2) Amends section 235-5.5, HRS, to provide that:
 - (A) A person may participate in the program by making periodic deposits of money with the financial institution or through a payroll deduction plan administered by the eligible home buyer's employer;
 - (B) Initial deposits shall not be less than \$250 for each alternative investment;
 - (C) At the direction of the participant, the trust may deposit moneys in a single money market mutual fund or account selected by the trustee which invests solely in securities in which the income is exempt from United States taxation, or invests in marketable securities rated in the top four rating categories by national rating services and designated as "investment grade" or "bank quality" investment securities; and
 - (D) The participant may direct the financial institution to transfer funds among alternative investments once annually, to be effective on the anniversary date of participation.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2096, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2096, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Holt, Taniguchi).

SCRep. 1843 Housing on S.B. No. 2504

The purpose of this bill is to make housekeeping amendments and to clarify and conform various sections of Chapter 514A, Condominium Property Regime, Hawaii Revised Statutes (HRS). In addition, the bill proposes to change the registrations of condominium managing agents ("CMAs") and association of apartment owners ("Associations") from an annual to a biennial basis.

Supportive testimony was received from the Hawaii Real Estate Commission ("Commission"). The Community Associations Institute-Hawaii Chapter and the Management Consultants of Hawaii, Inc. were in support of biennial registration, however, they expressed concerns on certain provisions of the bill.

Your Committee finds that the suggested changes to the condominium statute would be helpful not only in implementing the provisions of the law, but also in reducing the workload of the Commission staff. In addition, your Committee understands that the Commission will also benefit in terms of resource allocation with a biennial fiscal year registration system. This will save resources for the Associations and any costs associated with completing the registration forms, especially for the great number of Associations that have no changes to the information on the registration forms. The information will also be current as Associations have their annual meetings from January to June when key decisions are made on officer, budget, and other pertinent issues. Changing to a biennial renewal cycle for both CMA's and Association's will align with the Department of Commerce and Consumer Affairs's renewal cycle system, thus ensuring a more consistent process.

Your Committee has taken into consideration proposed amendments to the measure as suggested by the Commission. Thus, your Committee has amended the bill as follows:

- (1) Clarifying that an approved registration must be secured prior to conducting any condominium managing activity and that the Commission can set a reregistration deadline date so that an approved reregistration can be secured by the termination date;
- (2) Deleting a provision on fees for the 1997-1998 biennium period and moving the deleted language to section 10 of the bill;
- (3) Clarifying that the Commission may deny any registration or reregistration application or terminate a registration without hearing, if the fidelity bond and its evidence fails to meet the requirements of the chapter and the rules adopted;
- (4) Adding new language to Section 514A-84, HRS, to include managing agents and associations of apartment owners and to ensure that the Commission receives pertinent information on all condominium projects over a year old in which an association of apartment owners has yet to be organized. In addition, the language ensures that whomever is responsible for the management contract shall make copies for the other parties of the contract as well as any requesting apartment owner;
- (5) Clarifying that an approved registration must be secured for an association of apartment owners and that the Commission can set a reregistration deadline date so that an approved reregistration can be secured by the termination date;
- (6) Indicating that if the association of apartment owners has not held its first meeting and it is at least one year after the recordation of the purchase of the first apartment, the developer or developer's affiliate or managing agent shall register in behalf of the unorganized association of apartment owners in compliance with the law;
- (7) Stating that failure to register or register or pay the required fees by the due date shall result in the assessment of a penalty equal to the amount of the registration or reregistration fee;
- (8) Adding new language regarding fees if the Department of Commerce and Consumer Affairs is not able to amend the present annual fees in Chapter 53, Hawaii Administrative Rules, to biennial fees by November 1, 1996. The fees are neither an increase of any presently-approved fees, nor proposed fees that are going through rulemaking today. The biennial Compliance Resolution Fund fee and the biennial Condominium Management Education Fund fee per apartment are based on doubling the present annual fee. The biennial application and registration fees represent no increase from the annual fees; and
- (9) Making technical, nonsubstantive amendments for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2504, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2504, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, none.

SCRep. 1844 (Joint) Transportation and Government Affairs and Agriculture, Labor, and Employment on S.B. No. 2154

The purpose of this bill is to require, when the unemployment rate in the State of Hawaii is greater than the national average rate of unemployment, that a person awarded a services contract, a construction contract, or a contract for

professional services to be performed in the State shall hire individuals who are residents of the State to perform that portion of the contract to be performed in the State.

Testimony in support of the bill was received from the Construction Industry Legislative Organization, the Plumbers and Fitters Local 675, and the Hawaii Operating Engineers Industry Stabilization Fund. The Department of Accounting and General Services (DAGS) originally submitted testimony in opposition to the bill, but later testified in support of the bill and proposed several amendments. DAGS proposed that:

- (1) A waiver process be provided where consultant or contractor services are unique and cannot be obtained in the State;
- (2) The State Procurement Office be designated as responsible for compliance; and
- (3) The determination by the Director of Labor and Industrial Relations as to State's rate of unemployment being greater than the national rate be made prior to the advertisement for bids.

Your Committees have amended the bill to incorporate DAGS' suggested proposals.

As affirmed by the records of votes of the members of your Committees on Transportation and Government Affairs and Agriculture, Labor, and Employment that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2154, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2154, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.
Ayes, 5. Noes, none. Excused, 2 (Solomon, Anderson).

SCRep. 1845 Transportation and Government Affairs on S.B. No. 2838

The purpose of this bill is to authorize the issuance of general obligation bonds and make an appropriation for the reimbursement of the airport revenue fund.

This administration bill would authorize \$64,400,000 in general obligation bonds. This is the amount which the State used from the fund to purchase the Hawaii Raceway Park and the Hawaii Meat Company Feedlot, for which the federal government has ruled that the State must reimburse the fund and the State has agreed to do so.

Your Committee prefers that the State explore alternatives to the reimbursement of these funds by issuance of \$64,000,000 in general obligation bonds at this time, including methods such as deferred payment, installment payments, sale or transfer of state assets and/or real property, and other appropriate alternatives. Therefore, your Committee has amended this bill by deleting the authorized amount and substituting an unspecified sum for the Committee on Ways and Means to study further.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2838, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2838, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Anderson).

SCRep. 1846 (Joint) Transportation and Government Affairs and Ecology and Environmental Protection on S.B. No. 2894

The purpose of this bill is to add to the authority of the State Department of Transportation (DOT) to regulate the transportation of hazardous materials and hazardous waste, by adding infectious substances, and medical waste and providing for regulatory matters concerning them.

This administration bill would also:

- (1) Prohibit any person from transporting these materials and substances without compliance with applicable rules of the DOT;
- (2) Prohibit any person from dumping these materials and substances upon a public highway, street, or immediate property without taking immediate action to stop their spread or to remove them;
- (3) Require that any shipment of these materials and substances be subject to inspection by the DOT;
- (4) Require the reporting of any incident of leak, spill, escape, and the like of these materials and substances; and
- (5) Change "etiologic agent" to "infectious substance" in compliance with federal standards.

Your Committees deem hazardous materials, hazardous waste, infectious substances, and medical waste to be of a sufficient public health hazard to warrant their strict scrutiny while in transit to protect against an accident which could cause widespread detrimental and possibly lethal consequences.

Your Committees have amended this bill by adding to section 7 that the DOT shall consult on the study with commercial enterprises in the business of transporting these materials and substances.

As affirmed by the records of votes of the members of your Committees on Transportation and Government Affairs and Ecology and Environmental Protection that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2894, as amended herein, and recommend 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 the Chairmen on behalf of the Committees.
Ayes, 7. Noes, none. Excused, 3 (Chumbley, Levin, Anderson).

SCRep. 1847 Consumer Protection on S.B. No. 2007

The purpose of this bill is to expressly provide that any waiver and release, waiver of liability, or indemnity signed by a participant, or any parent or guardian of a participant, in a motorsport or sports event involving motorsports shall be valid as a complete defense against any claim for personal injury.

Your Committee received favorable testimony in support of the bill from insurance companies who indicated that the current legal climate made it impossible to offer insurance coverage without enforceable waivers. Favorable testimony was also received from racing enthusiasts who pointed out that their choice to participate in motorsports and to sign such waivers was knowing and voluntary, and that insurance coverage was necessary to the continuation of their sport. The Consumer Lawyers of Hawaii opposed the bill on the basis that it was too broad and could be construed as applying to claims for gross negligence.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2007 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Aki).

SCRep. 1848 Consumer Protection on S.B. No. 2029

The purpose of this bill is to provide licensing requirements for hoisting machine operators in the manufacturing and construction industry.

Your Committee finds that the operators of cranes and other hoisting machines are often times called on to lift construction material and equipment weighing several tons up to highrise construction sites. The improper use of a crane by an inexperienced operator can result in injury not only to fellow workers, but also to members of the general public who may be in the vicinity.

While your Committee believes that it is in the public interest to ensure that only highly qualified and experienced persons be permitted to work as operators of hoisting machines, it does not believe that the licensing regime established by this measure is necessary to accomplish this objective.

Your Committee finds that operators of hoisting machines are not completely unregulated. Hawaii occupational safety and health rules require that crane operators pass a medical examination and carry a certificate attesting to their ability to safely operate the hoisting equipment. The rules further require employers to ensure that hoisting machine operators have the training and experience necessary to safely operate the equipment for the protection of both the employee and the public.

Your Committee does believe, however, that additional regulation of crane operators may be warranted.

Your Committee has amended this bill by deleting all existing language and substituting language authorizing the department of labor and industrial relations to regulate cranes and other hoisting machines and their operators.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2029, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2029, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Aki).

SCRep. 1849 Consumer Protection on S.B. No. 2101

The purpose of this bill is to provide for proceedings to suspend the occupational, vocational, professional or other licenses of a person who is in arrears of child support payments.

Your Committee believes that the problem of nonpayment of child support is so widespread as to adversely impact the social fabric of our society to the extent that ordinary measures of enforcement go largely ignored by the debtors, who ignore such orders with a cavalier attitude. Therefore, your Committee finds that more stringent measures are needed such as this which is intended to effectively place the debtor at the mercy of the threat of being put out of business for awhile. The intent is not to punish those who cannot find work, but to punish those who do work and do not pay. Your Committee feels that these are the more egregious violators.

According to supporting testimony of the Attorney General, license revocation has been an effective and potent weapon in the collection of delinquent child support. Twenty other states have enacted license revocation statutes for the nonpayment of child support and report significant success with these statutory measures.

Your Committee has amended this bill by changing the procedural aspects to allow the family court to determine the delinquency and to issue the order of revocation. Your Committee believes that the family court rather than the child support agency is more appropriate to make this determination for license revocation purposes. This would also streamline the procedures to avoid going back and forth between the child support agency and the licensing agency. Your Committee also has added a penalty of a misdemeanor for a violation of the court order and made technical, nonsubstantive amendments.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2101, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2101, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Aki).

SCRep. 1850 Consumer Protection on S.B. No. 2437

The purpose of this bill is to delete the requirement that the Insurance Commissioner approve plans for recoupment by each member of the Property and Liability Insurance Guaranty Association.

Your Committee finds that the approval requirement constitutes an unnecessary administrative delay in that sufficient regulatory safeguards already exist in the Insurance Code regarding the recoupment of assessments under Article 16.

Your Committee believes that the bill will alleviate this undue delay while still maintaining adequate regulation of the insurance industry in this area.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2437 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Aki).

SCRep. 1851 (Majority) Consumer Protection on S.B. No. 2438

The purpose of this bill is to limit the total assessment in the event of a loss from a covered event to an amount not to exceed \$500,000,000 for each covered event.

Your Committee finds that the existing law allows the Hawaii hurricane relief fund board of directors to establish a minimum assessment amount in the event of losses for each covered event. Your Committee further finds that in order to ensure that the assessment of loss is shared among the insurers participating in the pool, a total assessment amount per event should be set so that carriers can anticipate their potential exposure and portion of the assessment for which they will be liable.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2438 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, 2 (Ige, Levin). Excused, 1 (Aki).

SCRep. 1852 (Majority) Consumer Protection on S.B. No. 2611

The purpose of this bill is to establish an interstate insurance receivership compact.

Your Committee finds that the purposes of this compact are, through means of joint and cooperative action among the compacting states:

- (1) To promote, develop and facilitate orderly, efficient, cost effective, and uniform insurer receivership laws and operations;
- (2) To coordinate interaction between insurer receivership and guaranty association operations;
- (3) To create the Interstate Insurance Receivership Commission; and
- (4) To perform these and such other related functions as may be consistent with the state regulation of the business of insurance pursuant to the federal McCarran-Ferguson Act.

The bill would establish the Interstate Insurance Receivership Commission as a "super-regulator" to oversee and administer the management of insolvent insurance companies. The State's Insurance Commissioner, regulatory agencies, and courts would be bound by the rules adopted by the Interstate Insurance Receivership Commission and would be required to enforce them.

Your Committee believes that the bill will assist the State in uniformly handling the complicated processes surrounding insurance receivership issues.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2611 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, 1 (Ige). Excused, 1 (Aki).

SCRep. 1853 Consumer Protection on S.B. No. 2723

The purpose of this bill is to provide for the creation of limited liability companies in Hawaii, as well as the recognition of foreign limited liability companies wishing to transact business in the State.

Your Committee finds that a limited liability company is a hybrid business entity which offers, when properly structured, the "pass-through" tax benefits of a partnership together with the limited liability protection of a corporation.

To a certain extent, S corporations and limited partnerships already provide limited liability protection and pass-through income tax treatment for their shareholders or partners. The limited liability company, however, enjoys several advantages over the other two entities.

For instance, an S corporation may not have more than thirty-five shareholders, may not have non-resident aliens as shareholders, may not own interests in corporate subsidiaries that would render it a member of an affiliated group, and may not issue more than one class of stock. In addition, with the exception of estates and certain trusts, only individuals may be shareholders of an S corporation. None of these somewhat burdensome and restrictive requirements applies to a limited liability company.

The limited liability company also has operational and tax advantages over the limited partnership. First, the members of a limited liability company may generally participate in the daily operations of the company without incurring unlimited liability. Limited partners, on the other hand, who actively participate in the daily operations of the limited partnership may be subject to unlimited liability for all of the partnership's obligations. Second, pass-through income and losses for members of a limited liability company are treated for federal income tax purposes as "active" income and losses, whereas a limited partner's share of income and losses are treated as "passive" income and losses.

In light of these advantageous attributes, your Committee finds that the limited liability form of business organization would be especially adaptable and of significant benefit to small and medium-sized businesses, the predominant enterprise in Hawaii.

Moreover, since Hawaii is currently the only state in the nation that does not have a limited liability company law, the State's small and medium-sized businesses are being put at a severe competitive disadvantage.

Your Committee strongly supports this measure, which is the product of the collaborative efforts of the Business Registration Division of the Department of Commerce and Consumer Affairs and the Hawaii State Bar Association Sections on Corporations and Securities and Real Estate and Finance. It is based in significant part on the Uniform Limited Liability Company Act adopted in 1994 by the National Conference of Commissioners on Uniform State Laws.

Your Committee has amended this bill by deleting Section 19 which authorizes the Department of Taxation to organize a limited liability company under the bill for the sole purpose of obtaining a favorable revenue ruling or private letter ruling from the Internal Revenue Service (IRS). Your Committee believes it more appropriate for private companies to request tax treatment rulings from the IRS.

Your Committee has also made several technical, nonsubstantive changes to correct internal numbering inconsistencies, and for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee 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 the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Aki, Anderson).

SCRep. 1854 Consumer Protection on S.B. No. 2726

The purposes of this bill are:

- (1) To increase the foreign lender statement registration and renewal fee from \$30 to \$50 and to require that the fees be deposited into the Financial Institution Examiners' Revolving Fund;
- (2) To clarify that the annual fees imposed by section 412:2-109, Hawaii Revised Statutes, are imposed only on financial institutions subject to examination by the Commissioner;

- (3) To provide that the administrative costs assessed under section 412:2-315, Hawaii Revised Statutes, and the fines assessed under section 412:2-611, Hawaii Revised Statutes, shall be deposited into the Financial Institution Examiners' Revolving Fund;
- (4) To clarify that the application of a foreign financial institution to acquire a failing Hawaii financial institution will not be given preference over U.S. financial institutions or their holding companies whose operations are not principally conducted in Hawaii or a qualifying state; and
- (5) To clarify that small Hawaii depository institutions are exempt from certain requirements under section 421:3-112, Hawaii Revised Statutes.

This is an administration bill and favorable testimony was submitted by the Department of Commerce and Consumer Affairs.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2726 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Aki, Anderson).

SCRep. 1855 Consumer Protection on S.B. No. 2730

The purpose of this administration bill is to change certain fees for the filing and processing of various documents under the Hawaii Business Corporation Act (chapter 415, Hawaii Revised Statutes), Hawaii Nonprofit Corporation Act (chapter 415B, Hawaii Revised Statutes), Partnerships law (chapter 425, Hawaii Revised Statutes), and the Uniform Limited Partnership Act (chapter 425D, Hawaii Revised Statutes).

This bill also clarifies securities exempt from registration under the Uniform Securities Act which are issued by an investment company.

The Department of Commerce and Consumer Affairs (DCCA) submitted supporting testimony indicating that Hawaii's fees, which have not been raised since 1985, are substantially lower than those on the mainland. The raise in fees will amount to about \$2 million, which the DCCA will put to modernization to enhance its operational function and organizational efficiency.

Your Committee has amended this bill to lower the fees from the proposed increased amounts, although the fees will still be above the current fees, and to make technical, nonsubstantive amendments.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2730, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2730, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Aki).

SCRep. 1856 Consumer Protection on S.B. No. 2733

The purpose of this bill is to amend the manner in which insurance premiums are reported and taxed within the State.

Specifically, the bill:

- (1) Authorizes the taxation of annuities;
- (2) Eliminates the monthly tax payment method and replaces it with a quarterly payment schedule for insurers and surplus lines brokers;
- (3) Requiring insurers and surplus lines brokers to file quarterly financial statements; and
- (4) Clarifies the penalties for late filings for insurers and surplus lines brokers.

Your Committee finds that the elimination of the monthly premium tax payments will save the Insurance Division of the Department of Commerce and Consumer Affairs much time in that it will eliminate the need to check each insurer's prior year premium tax liabilities to ensure compliance with current monthly, quarterly, and annual payment deadlines.

Your Committee also finds that the amendment to section 431:7-202(g), Hawaii Revised Statutes, which clarifies that a failure to file a tax statement or pay required taxes when due will result in a fine of not less than \$100 and not more than \$500 per day. This amendment eliminates the loophole insurers are using to avoid paying a fine if the insurer was not late in filing both a tax statement and the required taxes.

Your Committee, however, has reservations over authorizing the taxation of annuities. It finds that the current national trend on this matter is actually to not tax annuities. As such, your Committee has deleted the provisions relating to the taxation of annuities.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2733, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2733, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Aki, Ige, Anderson).

SCRep. 1857 Consumer Protection on S.B. No. 2738

The purpose of this bill is to provide that certain violations in regulated industries are an unfair and deceptive practice under the restraint of trade law.

Specifically, this bill repeals:

- (1) The present penalties provided under section 437D-19, Hawaii Revised Statutes (HRS), for violations of Chapter 437D, HRS, which relates to motor vehicle rentals, and instead deem such violations to constitute unfair and deceptive business practices under section 480-2, HRS;
- (2) The present penalties provided under section 477E-5, HRS, for creditor violations of Chapter 477E, HRS, which relates to fair credit extension, and instead deem such violations to constitute unfair and deceptive business practices;
- (3) The provision under section 481B-1(b), HRS, that the sending of unsolicited goods is an unfair or deceptive act;
- (4) The present penalties provided under section 481B-4, HRS, for violations of chapter 481B, HRS, which relates to unfair and deceptive practices, and instead deem such violations to constitute unfair and deceptive business practices;
- (5) The provision under section 481B-6, HRS, that failure to provide the information required under that section, which relates to the sale of solar energy devices, shall be deemed to be an unfair and deceptive act; and
- (6) The provision which deems violations of section 481B-11, HRS, relating to refunds for sensitivity-awareness training, an unfair and deceptive business act under section 480-2, HRS.

Testimony by the Department of Commerce and Consumer Affairs indicated that all of the violations addressed by each section of the bill are unfair and deceptive acts under section 480-2, Hawaii Revised Statutes, subject to the penalties under section 480-3.3. Therefore, it was unnecessarily duplicative to set forth the civil penalties in each of the sections of the Hawaii Revised Statutes.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2738 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Aki, Anderson).

SCRep. 1858 Consumer Protection on S.B. No. 2743

The purpose of this bill is to repeal unnecessary statutory language indicating that the director of the office of consumer protection is not precluded from filing actions against any motor vehicle repair dealer, mechanic, or apprentice for violations of the law.

Your Committee finds that the director of the office of consumer protection is empowered to file actions on behalf of the public when alleged violations are reported against a business operating in Hawaii. Your Committee further finds that this authority is intended to be inclusive rather than exclusive of any particular industry and, therefore, a change in statute is needed to clarify this authority.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2743 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Aki, Anderson).

SCRep. 1859 Consumer Protection on S.B. No. 2748

The purpose of this bill is to delete the repeal date on Act 253, Session Laws of Hawaii 1993, which gives the regulated industries complaints office (RICO) administrative citation powers to cite ongoing unlicensed activities in regulated professions and occupations.

Your Committee finds that pursuant to Act 253, the RICO program has been able to more effectively respond to ongoing unlicensed activity in many regulated professions and occupations, by issuance of an order of abatement and applicable fines. Your Committee further finds that this administrative citation process allows RICO to respond more expeditiously to ongoing unlicensed activity that has greater potential of causing consumer harm.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2748 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Aki, Anderson).

SCRep. 1860 Consumer Protection on S.B. No. 2755

The purpose of this bill is to authorize the Director of Commerce and Consumer Affairs to establish a special or trust fund to administer fees and costs associated with the State Certified Arbitration Program.

Your Committee finds that the State Certified Arbitration Program was established pursuant to section 481I-4, Hawaii Revised Statutes (HRS), as a mechanism by which disputes over express motor vehicle warranties would be resolved.

Although section 481I-4, HRS, provides for the payment of fees by both parties to an arbitration proceeding, it does not provide for where the fees are to be held during the proceeding.

Your Committee believes that the establishment of such a fund would assist the State Certified Arbitration Program in responsibly fulfilling its mandated purpose.

Your Committee has amended the bill by limiting the Director of Commerce and Consumer Affairs' option to establish either a special or trust fund to just a trust fund.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2755, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2755, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Aki, Anderson).

SCRep. 1861 Consumer Protection on S.B. No. 2756

The purpose of this bill is to clarify the priority of distribution of claims from an insolvent insurer's estate under article 15 of the insurance code, relating to insurers supervision, rehabilitation, and liquidation.

The amendments proposed by this administration bill would conform the insurance code to a recent ruling by the United States Supreme Court in Department of the Treasury v. Fabe, which establishes the priority of distribution of assets of an insolvent insurer. This bill maintains the general order of priorities in the code, but claims of the federal government have been moved above general creditors. Debts to employees have been moved below federal claims. Language has been added from model law, clarifying the types of claims excluded from Class 2 policyholder status.

Your Committee has amended the bill to make technical nonsubstantive changes for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2756, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2756, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Aki, Anderson).

SCRep. 1862 Consumer Protection on S.B. No. 2758

The purpose of this bill is to establish net worth requirements, uncovered expenditures, insolvency deposits, and other provisions to address insolvent mutual benefit societies.

Your Committee finds that the State's regulation of mutual benefit societies is intended to protect health insurance consumers, and this measure imposes stringent requirements to prevent insolvency and maintain payment of health care services in the event of insolvency of any mutual benefit society operating in Hawaii. Your Committee further finds that this measure would impose the same solvency protection requirements upon mutual benefit societies as were imposed upon health care maintenance organizations by Act 179, Session Laws of Hawaii 1995.

Your Committee has amended the bill to address the issue raised by the insurance commissioner regarding protection against insolvency. The proposal requires maintenance of three months of "uncovered" health care expenditures; and as recommended by the insurance commissioner, your Committee has amended this provision to three months health care expenditures "incurred but not yet paid" to make it clear that the reference is to expenditures incurred and not health care expenditures not provided. Your Committee has further amended the bill by making various technical, nonsubstantive changes for the purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee 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 the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Aki, Anderson).

SCRep. 1863 Consumer Protection on S.B. No. 2773

The purpose of this bill is to amend the laws relating to the administration of drug product selection within the State.

Specifically, the bill amends Part VI of Chapter 328 (Part VI), Hawaii Revised Statutes (HRS), by:

- (1) Establishing that any person who wilfully violates any provision of Part VI shall be guilty of a misdemeanor;
- (2) Authorizing the Department of Health to impose an administrative penalty of up to \$10,000 for violation of Part VI and providing the Director of Health with the power to commence injunctive relief proceedings to prevent any violation of Part VI;
- (3) Exempting anti-epileptic drugs from the generic drug product selection requirements of Part VI; and
- (4) Replacing the definitions of "dispenser" and "prescriber" with definitions for "pharmacist" and "practitioner" to Part VI and making numerous technical amendments.

Your Committee finds that the penalties and injunctive relief power provided to the Department of Health in the bill are consistent with similar powers bestowed upon the Department of Health in Part I of Chapter 328, HRS.

Your Committee also finds that the exemption for anti-epileptic drugs from the generic drug product selection requirements of Part VI, unless authorized by the patient's attending physician and the patient, or the patient's parent or guardian, is necessary in that most anti-epileptic drugs have a very narrow therapeutic range and are therefore dispensed for a very specific therapeutic purpose.

Your Committee believes that the amendments contained in the bill provide added assurance that the consumers of this State will be provided with only generic drugs that are equivalent in quality to "brand name" drugs, when such substitutions are allowed.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2773 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Aki, Anderson).

SCRep. 1864 Consumer Protection on S.B. No. 2912

The purpose of this bill is to allow for the revocation, suspension, or nonrenewal of a contractor's license for failure to pay delinquent taxes, interest, or penalties assessed under the State's general excise tax law.

Your Committee finds that although the majority of licensed contractors in the State comply with their tax obligations on a timely basis, the Department of Taxation has been experiencing serious collection problems with contractors as of late, with approximately \$3.7 million being owed in back taxes.

Additionally, your Committee finds that the law as currently written does not specifically enumerate tax delinquency as a sanctionable act worthy of license revocation, suspension, or nonrenewal.

As such, your Committee believes that providing for the revocation, suspension, or nonrenewal of a contractor's license for failure to pay a general excise tax obligation and any associated penalties or interest or to enter into and stay current in a payment plan will assist the Department of Taxation in collecting back taxes owed.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2912 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Aki, Anderson).

SCRep. 1865 Consumer Protection on S.B. No. 2917

The purpose of this bill is to repeal the tax credit to facilitate regulatory oversight of insurance companies.

Presently, authorized insurers pay a tax on insurance premiums received under sections 431:7-201 to 431:7-207, Hawaii Revised Statutes (HRS). Section 431:7-207, HRS, provides insurers with a tax credit equal to one per cent of their taxable premiums if they meet certain statutory criteria such as: maintaining books and records in Hawaii; employing personnel in Hawaii knowledgeable about the insurer's financial operations; and maintaining a customer service center in Hawaii.

Your Committee finds that prior to July 1992, the insurance premiums tax was imposed at a higher rate on foreign insurers. Act 236, Session Laws of Hawaii 1992, made the tax rates nondiscriminatory but also enacted the credit in section 431:7-207, HRS.

Your Committee believes that repeal of the credit is warranted at this time because:

- (1) Repeal of the credit promotes fairness and equity among all insurers; and
- (2) Maintenance of the credit costs the State between \$5 and \$6 million annually in lost revenue.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee 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 the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Aki, Ige, Anderson).

SCRep. 1866 Consumer Protection on S.B. No. 3052

The purpose of this bill is to reformulate the State's policy regarding professional and vocational regulation.

The bill provides that:

- (1) Regulation in the form of full licensure is mandatory when the health, safety, or welfare of the consumer may be jeopardized by the nature of the service offered;
- (2) Regulation which artificially increases the costs to the consumer shall be avoided except if the Legislature determines the cost is exceeded by the potential danger to the consumer;
- (3) Regulations shall be eliminated when the Legislature determines they have no further benefits to consumers; and
- (4) Fees for regulation and licensure will be imposed on each profession and vocation subject to regulation in the amount necessary to meet the full cost of administering the regulatory program for the particular profession or vocation.

The Department of Commerce and Consumer Affairs testified in support of the bill and informed your Committee that, since the Department's Professional and Vocational Division is self sufficient and not receiving general funds, it is important that they be allowed to recover the full administrative costs from licensing fees.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3052 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Aki).

SCRep. 1867 Consumer Protection on S.B. No. 3158

The purpose of this bill is to allow the issuance of one insurance policy for liability and other types of insurance, excluding prepaid health insurance, to cover multiple employers working on public or private construction projects of \$25,000,000 or more in total costs.

Your Committee finds that the present workers' compensation law does not allow for pooled insurance policies, and the Attorney General so advised the director of labor and industrial relations that workers' compensation policies could not be sold as pooled insurance. Your Committee believes, however, that pooled insurance as provided in this bill should be allowed since it is an effective mechanism to reduce the costs of various types of insurance, including workers' compensation which is one of the most costly types of insurance required for construction projects.

Your Committee, after receiving testimony on this bill, has amended the bill by increasing the amount from \$25,000,000 to \$50,000,000 in total construction costs for projects to which this law allowing pooled insurance policies would apply. The bill has also been amended to prevent conflicts with section 386-124, Hawaii Revised Statutes, which presently prevents the use of pooled insurance at one project site for workers' compensation insurance.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3158, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3158, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Aki).

SCRep. 1868 Consumer Protection on S.B. No. 3188

The purpose of this bill is to clarify the responsibility for the collection and payment of real property taxes on time share units and the right to appeal real property assessments.

Your Committee finds that there is a need to clarify that plan managers, as agents of the owners, are responsible for the collection and payment of real property taxes. Your Committee further finds that the right to contest or appeal any real property assessment should also be fixed with the plan manager or persons having an interest in the time share unit.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3188 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Aki).

SCRep. 1869 Consumer Protection on S.B. No. 3255

The purpose of this bill is to provide a method for time share associations to collect unpaid assessments through foreclosure procedures against delinquent time share owners.

This bill confers to time share associations powers equivalent to condominium property regime associations and provides procedural mechanisms for foreclosure. The problem is that time share associations currently lack the statutory authorization to foreclose, even though the time share plan documents permit enforcement of unpaid assessment liens by "power of sale," which is similar in effect to foreclosure. However, title insurance underwriters are unwilling to insure titles to time share intervals that are subject to auctions by the time share associations exercising the power of sale. This is because those auctions lack the legality of a clean transfer of title pursuant to those sales. This bill would remedy that problem.

Your Committee finds that the problems faced by time share associations in collecting unpaid assessment liens are large and threaten to grow worse as more and more time share associations are established due to the growth of this industry. Without title insurance on the time share intervals, people are reluctant to purchase the intervals at auctions by time share associations exercising a power of sale. This results in the time share association being burdened with the delinquent owners' share of assessment expenses.

Your Committee received supporting testimony from the Department of Commerce and Consumer Affairs.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3255 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Aki).

SCRep. 1870 Consumer Protection on S.B. No. 3269

The purpose of this bill is to clarify the powers of the Hawaii Hurricane Relief Fund (HHRF) to pledge and assign fund moneys.

According to supporting testimony of the Executive Director of the HHRF, this bill would allow the HHRF to enter into loan agreements whereby the borrower, or HHRF, is able to provide the lender a perfected security interest in specific revenues. This would enhance the borrowing ability of HHRF and thus augment the functions and purpose of the HHRF to provide insurance coverage for hurricane damage.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3269 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Aki).

SCRep. 1871 Planning, Land and Water Use Management on S.B. No. 608

The purpose of this bill is to effectuate the title of this bill.

Your Committee has amended this bill to provide for a land exchange of approximately 183 acres of public land for a minimum of 183 acres of land currently owned by Campbell Estate. This land exchange would be consistent with the concept of a secondary urban center at Kapolei because the State would acquire lands with better access to the H-1 Freeway, Farrington Highway, and proposed major road improvements in the Kapolei area.

As affirmed by the record of votes of the members of your Committee on Planning, Land and Water Use Management that is attached to this report, your Committee is in accord with the action to report out S.B. No. 608, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 608, S.D. 1, and be recommitted to the Committee on Planning, Land and Water Use Management for further consideration.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Ige, Ihara, Anderson).

SCRep. 1872 (Joint) Economic Development and Higher Education, Culture, and Arts on S.B. No. 2238

The purpose of this bill is to appropriate \$100,000 for fiscal year 1996-1997, to initiate the planning of an International Ocean Floating All-Natural Clean Energy Power Conference.

Your Committees find that as an island state dependent on fossil fuel energy, Hawaii has been a leader in seeking to develop alternative energy sources, and should continue to lead the nation in this effort.

Your Committees believe that this measure will enable the Hawaii Natural Energy Institute/University of Hawaii and the East-West Center, Inc. to host an international conference that will greatly promote the local economy and enhance Hawaii's stature as a world leader in clean energy research.

Your Committees have amended this measure by:

- (1) Broadening the scope of possible conference topics to include, ocean development and clean energy research, mahi mahi open ocean ranching, and other renewable energy pursuits; and
- (2) Providing that the appropriation may be matched by funds from private sources or from international governments, or both.

As affirmed by the records of votes of the members of your Committees on Economic Development and Higher Education, Culture, and Arts that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2238, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2238, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.

Ayes, 8. Noes, none. Excused, 3 (Fernandes Salling, Fukunaga, Ikeda).

SCRep. 1873 Economic Development on S.B. No. 2405

The purpose of this bill is to establish a program to provide net energy metering for eligible customer-generators.

Your Committee finds that this program may be an effective way to encourage private investment in renewable energy resources, stimulate economic growth in the State, and enhance the continued diversification of the State's energy resource mix.

Your Committee notes that several other states, including California, have recently implemented similar net energy metering programs.

Your Committee has amended this bill by:

- (1) Amending the definition of "eligible customer-generator" to mean a metered residential customer of an electric utility who owns and operates a solar or wind electric energy facility with a capacity of not more than ten kilowatts that is located on the customer's premises, operates in parallel with the utility's transmission and distribution facilities, in conformance with the utility's interconnection requirements, and is intended primarily to offset part or all of the customer's own electrical requirements;
- (2) Amending the definition of "net energy metering" to mean using a non-time-differentiated meter to measure the electricity supplied by a utility and another non-time-differentiated meter to measure the electricity generated by an eligible customer-generator and fed back to the utility over an entire billing period;
- (3) Providing that the electric utility shall make available net energy metering contracts or tariffs until the total rated generated capacity owned and operated by eligible customer-generators in the utility's service area equals 0.1 per cent of the utility's peak demand;
- (4) Adding a definition of "incremental cost of alternative electric energy", and clarifying that the customer-generator shall be billed for the energy supplied by the utility at the utility approved retail rate less an amount equal to the amount of energy generated by the customer-generator over the applicable billing period multiplied by a rate set by the commission based on the incremental cost to the utility of alternative electric energy. Where the above amount is positive, the customer shall be billed by the utility; where the amount is negative, the customer shall be credited by the utility;
- (5) Clarifying that the net energy measurement may be calculated on an annualized basis;
- (6) Providing that in the event of disputes between the utility and an eligible customer-generator, either party may request a determination of the disputed issue by the public utilities commission; and
- (7) Adding provisions relating to interconnection.

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

As affirmed by the record of votes of the members of your Committee on Economic Development that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2405, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2405, S.D. 1, and be referred to the Committee on Communications and Public Utilities.

Signed by the Chairman on behalf of the Committee.

Ayes, 5. Noes, none. Excused, none.

SCRep. 1874 Economic Development on S.B. No. 2710

The purpose of this bill is to promote professional services exported from Hawaii to foreign markets by exempting architects, engineers, urban planners, and land use planners from the general excise tax on revenues derived from work

conducted on international projects; and to establish a "services export revolving fund" for moneys paid by qualified firms on the exempted revenues.

Your Committee finds that Hawaii's construction industry has been stagnant for several years. This has resulted in hard times for, among others, professionals such as architects, engineers, and planners who rely on construction-related business.

To offset the decline in local business, many Hawaii architects, engineers, and planners are competing for international projects, mostly in Asia. The current four percent state general excise tax, however, is severely cutting into the profit margin of these professionals and leaving them very little room for competitive negotiating against rivals from other countries or U.S. states.

Your Committee believes, therefore, that in order to promote the export of Hawaii's professional services, a general excise tax exemption should be granted for qualified contractors and services on international projects, and a services export revolving fund should be established. Your Committee also encourages the Department to pursue expansion of the exemption to other exported services.

Your Committee has amended this measure by:

- (1) Providing that a one-half percent fee shall be assessed on exempted revenues and deposited into the services export revolving fund;
- (2) Clarifying that the general excise tax exemption shall be for selected exported contractors and services; and
- (3) Providing that site-specific out-of-state projects outside of the fifty states of the United States and the District of Columbia shall be considered international work for purposes of the exemption.

Your Committee has also made several technical amendments and nonsubstantive changes for purposes of style and clarity and to reflect the proper statutory language.

As affirmed by the record of votes of the members of your Committee on Economic Development that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2710, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2710, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, none.

SCRep. 1875 (Majority) Economic Development on S.B. No. 3240

The purpose of this bill is to expand the scope of businesses authorized to operate in State Enterprise Zones established pursuant to Chapter 209E, Hawaii Revised Statutes.

Specifically, the bill expands the definition of "qualified business" to include:

- (1) The retail sale of agricultural products produced by the seller; and
- (2) The practice of contracting, erecting, constructing, repairing, or improving buildings or structures as defined in section 237-6, Hawaii Revised Statutes.

The bill also exempts manufacturers, producers of agricultural products, wholesalers, and contractors from the eligibility requirements of a qualified business as set forth in section 209E-9, Hawaii Revised Statutes.

Your Committee finds that expanding the scope of qualifying businesses that are authorized to operate in State Enterprise Zones would help stimulate the recovery of economically-depressed areas. However, your Committee feels that the bill should be more specific in its economic targeting.

Your Committee, therefore, has amended the bill by:

- (1) Specifying that the road side sale of agricultural products from a temporary shelter qualifies as a "qualified business";
- (2) Specifying that only businesses engaged in the practice of contracting, erecting, constructing, repairing, or improving buildings or structures in counties with a population of less than 100,000 qualify as a "qualified business" for the purposes of this chapter;
- (3) Clarifying that the requirement that a qualified business:
 - (A) Begin operation of a trade or business within an enterprise zone; or
 - (B) Be actively engaged in the conduct of trade or business in the area immediately prior to its designation as an enterprise zone,

does not apply to those producers of agricultural products and contractors located in counties with a population of less than 100,000. Clarifies that producers and contractors are only entitled to the state business tax credit; and

(4) Providing for a repeal date one year after its effective date.

As affirmed by the record of votes of the members of your Committee on Economic Development that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3240, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3240, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, 1 (Matsuura). Excused, none.

SCRep. 1876 Communications and Public Utilities on S.B. No. 2401

The purpose of this bill is to establish a legal framework for using digital signatures as a means of authenticating computer-based information.

Your Committees find that in this age of information, the utilization of computer-based resources and technology, such as digital signature technology, can be valuable tools for stimulating commerce and improving the quality of government services.

Both the private and public sectors realize the importance of facilitating ever-increasing levels of electronic commerce. It is widely recognized, for instance, that signing and transmitting electronic documents directly, in their electronic form, eliminates the need in most cases to put them on paper, which in turn saves significant amounts of time and money.

Here in Hawaii, recent estimates by members of the judiciary acknowledge that the implementation of a secure and reliable electronic public document filing program would significantly reduce the cost of administering the court system, while enhancing system efficiency.

In light of current state fiscal constraints, your Committees believe that it would be in the public interest to allow the judiciary to work in partnership with relevant public agencies, attorneys and their related organizations, and notaries to implement a fully integrated, cost-efficient electronic document filing system that utilizes currently available digital signature technology. Recognizing that some persons used to the current paper-based system may be initially apprehensive to the deployment of an electronic system, your Committees believe that the judiciary program should be established on a temporary basis so that its results can be properly analyzed before any permanent changes are made.

Your Committees have amended this bill by deleting all existing language and by substituting language establishing a temporary pilot project within the judiciary to allow for computer-based, digital and electronic filing of court documents. The amended bill authorizes the Department of Commerce and Consumer Affairs to act as the certification authority for the pilot program to verify the digital signatures of attorneys, notaries, and other persons authorized by the Department to affix digital signatures on computer-based documents. It also provides that a digitally signed document is as valid as it had been written on paper.

As affirmed by the records of votes of the members of your Committees on Communications and Public Utilities and Consumer Protection that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2401, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2401, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Matsuura).

SCRep. 1877 Communications and Public Utilities on S.B. No. 3107

The purpose of this bill is to authorize counties to charge reasonable fees, in addition to reproduction fees, for computer-generated maps and other similar geographic information system (GIS) data having "commercial value". This measure defines "commercial value" as having use for commercial real estate development or related activities and the potential for monetary profit.

Your Committee finds that a primary objective of existing county GIS programs is to improve public access to high quality geographically-referenced data. In addition to the range of expanding public land use policy uses, this data has a multitude of beneficial commercial applications, such as providing support for engineering and real estate development plans.

Users who rely on GIS data require systems that are updated with certifiably accurate information. The costs for the ongoing maintenance, development, and implementation of GIS systems, acquisition of additional data sources, and commitment of staff resources to maintain current information are substantial. Since state and county agencies are facing severe budgetary reductions and limited funding sources, agencies must be permitted to recover some of the costs associated with the development and maintenance of their GIS data systems.

Your Committee believes that this measure will permit agencies to maintain and expand their GIS systems and increase electronic access to GIS data.

Your Committee has amended this bill to clarify the types of GIS systems costs that are included within the scope of related costs of reproduction. All references to the charging of fees based on "commercial value" have been deleted from the amended measure.

Your Committee has also made several conforming amendments and several technical, nonsubstantive changes for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Communications and Public Utilities that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3107, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3107, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Chumbley, Ihara).

SCRep. 1878 Communications and Public Utilities on S.B. No. 3134

The purpose of this bill is to establish a class C felony offense of theft of utility services.

Your Committee finds that the theft of utility services has a significant impact within each county in the State. Not only does utility theft create potentially hazardous conditions for persons and property alike, as in instances involving the theft of electricity, but it also results in a sizeable loss of revenues to the utilities, which are passed on to all ratepayers in the form of higher rates.

Your Committee supports this measure as a means of deterring utility theft and assisting utilities in their efforts to manage their resources and better serve the public. Your Committee received testimony on the levels of electricity theft ranging from three incidents on Kauai in 1995, to HECO's 351 suspected cases in 1995 totalling more than \$150,000 in stolen electricity on Oahu.

Your Committee has amended this measure by broadening the definition of utility to include electric, gas, and water utilities. Your Committee has also made several conforming amendments and several technical, nonsubstantive changes for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Communications and Public Utilities that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3134, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3134, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Chumbley, Kanno, Matsuura).

SCRep. 1879 Communications and Public Utilities on S.B. No. 3202

The purpose of this bill is to provide a two-year income tax deduction to individuals and private sector businesses whose purchases or donations of computer technologies and information services are used for educational purposes.

Your Committee finds that as the twenty-first century approaches, opportunities for success in the workplace and elsewhere are dependent on the ability of persons to efficiently access and use information. It is estimated that fully sixty percent of the jobs in the year 2000 will require knowledge of information technologies. Since 2000 is only four years away, there is an urgent need to accelerate students' development of technical skills since these constitute the fundamental building blocks for a media-literate skilled work force.

Your Committee finds that by leveraging private sector investment into educational technology infrastructure, the State can accelerate deployment of computer technologies and resources of the information superhighway into Hawaii's public schools. This can be best accomplished by expanding charitable contributions of educational technology and equipment by means of a short-term tax incentive.

Your Committee has amended this measure by deleting the proposed income tax deduction for individual resident taxpayers who use educational technology equipment and services for their own educational needs, and by making several conforming changes elsewhere in the bill. The present draft focuses on business and private sector contributions towards connecting Hawaii's educational facilities to resources available through the Internet and other global online services. Your Committee further notes that corporate income taxes comprise about 1% of state general fund tax revenues, and such a deduction would have a relatively minimal impact on future state revenues.

Your Committee has also made several technical, nonsubstantive changes for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Communications and Public Utilities that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3202, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3202, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Chumbley).

SCRep. 1880 Transportation and Government Affairs on S.B. No. 2788

The purpose of this bill is to:

- (1) Add a new section to chapter 348E, Hawaii Revised Statutes (HRS), to give the Commission on Persons with Disabilities authority to adopt rules and clarifies existing rulemaking responsibilities of the Architectural Access Committee (AAC) under section 103-50.5, HRS;

- (2) Amend sections 103-50 and 103-50.5, HRS, to provide that it is the Americans with Disabilities Act Accessibility Guidelines, as adopted and amended by the AAC;
- (3) Amend section 103-50, HRS, to delete the requirement that the Department of Accounting and General Services and the Department of Budget and Finance submit a list of donated buildings annually to the Legislature;
- (4) Amend section 103-50, HRS, to require that only state, and not county, agencies need to seek a technical review from the Commission on Persons with Disabilities;
- (5) Amend section 103-50.5 and chapters 347D and 348E, HRS, to facilitate consolidation of staff;
- (6) Amend chapters 347D and 348E, HRS, to clarify the composition, quorum, and membership of the Commission on Persons with Disabilities and the Hawaii State Coordinating Council on Deafness;
- (7) Amend chapter 348E, HRS, relating to the general duties of the Commission on Persons with Disabilities;
- (8) Repeal the general duties of the Hawaii State Coordinating Council on Deafness; and
- (9) Repeal the Interpreter Fund operated by the Hawaii State Coordinating Council on Deafness.

Testimony in support of the bill was submitted by the Hawaii State Coordinating Council On Deafness (HSCCD), the Architectural Access Committee (AAC), the Commission On Persons With Disabilities (Commission), and Art Frank a private citizen.

Your Committee learned that reduced operating budgets are affecting HSCCD, the AAC, and the Commission. This bill will allow them to combine staff resources, and meet the pressure to down size in an orderly manner.

Your Committee has amended the bill to:

- (1) Retain the requirement that county agencies seek advice and recommendation from the Commission on Persons with Disabilities on any construction plans;
- (2) Retain the general functions of the Commission on Persons with Disabilities as currently mandated;
- (3) Retain the general duties and responsibilities of the Hawaii State Coordinating Council on Deafness as currently mandated; and
- (4) Make technical, nonsubstantive amendments for style and clarity.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2788, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2788, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Taniguchi, Anderson).

SCRep. 1881 (Joint/Majority) Tourism and Recreation and Agriculture, Labor, and Employment on S.B. No. 3194

The purpose of this bill, as received by your Committees, is to require the Hawaii Visitors Bureau, as a condition of funding, to ensure that all hotels and resorts are in compliance with fair labor and employment practices, including the prevailing wage and hour laws under chapter 104, Hawaii Revised Statutes.

Your Committees find that the Hawaii Visitors Bureau (HVB) receives the majority of its financial support from the State which is used to promote and market various destinations, including hotels and resorts throughout the State. Your Committees further find that since these hotels and resorts directly benefit from the HVB's promotional efforts, they should be in compliance with fair labor and employment practices.

Upon further discussion and consideration, your Committees have amended this bill by:

- (1) Deleting the reference to compliance with the prevailing wage and hour laws under chapter 104; and
- (2) Making technical nonsubstantive changes for the purposes of clarity and style.

As affirmed by the records of votes of the members of your Committees on Tourism and Recreation and Agriculture, Labor, and Employment that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 3194, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 3194, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.
Ayes, 7. Noes, 2 (Baker, Liu). Excused, 2 (Iwase, Anderson).

SCRep. 1882 Agriculture, Labor, and Employment on S.B. No. 2485

The purpose of this bill is to preserve the employment benefits of public employees if placed on furlough.

Your Committee finds that due to the fiscal crisis facing the State, a furlough of public employees may be necessary in order to avert more drastic financial measures. Your Committee believes that if such a furlough is to occur, the employment benefits of a furloughed employee should remain in force.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2485 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Anderson).

SCRep. 1883 Agriculture, Labor, and Employment on S.B. No. 2486

The purpose of this bill is to preserve the employment benefits of legislative employees if placed on furlough.

Your Committee finds that due to the fiscal crisis facing the State, a furlough of legislative employees may be necessary in order to avert more drastic financial measures. Your Committee believes that if such a furlough is to occur, the employment benefits of a furloughed employee should remain in force.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2486 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Anderson).

SCRep. 1884 Agriculture, Labor, and Employment on S.B. No. 2634

The purpose of this bill is to expand the State's leave sharing program to include instances where a family member is seriously injured or ill and to make the program permanent.

Your Committee finds that allowing employees to donate vacation leave to a co-worker who is either seriously injured or ill or who has a family member who is either seriously injured or ill promotes employee morale and is therefore a worthwhile program.

Your Committee has amended the bill to allow a recipient of donated vacation leave to use donated leave without first exhausting all the recipient's own available sick leave if the recipient's family member is the person who is either seriously injured or ill.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2634, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2634, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Anderson).

SCRep. 1885 Agriculture, Labor, and Employment on S.B. No. 2848

The purpose of this administration bill is to allow the Director of Labor and Industrial Relations to establish fees under chapter 91, Hawaii Revised Statutes, for issuing permits, searching records, the costs of training materials used in workshops sponsored by the Department, and the costs for public notices for variances or the adoption, modification, or repeal of rules.

The Department of Labor and Industrial Relations testified in support of the bill as it would transfer the costs from the taxpayers to the users of the services. The Department favors user fees. The bill was opposed by the Hawaii Business League, and the Chamber of Commerce.

Your Committee has amended the bill to make technical non-substantive changes for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee 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 referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Anderson).

SCRep. 1886 Agriculture, Labor, and Employment on S.B. No. 2850

The purpose of this bill is to allow the voluntary deduction and withholding of state and federal income tax from unemployment compensation.

The bill requires that applicants for unemployment compensation be informed that unemployment benefits are subject to state and federal income taxes, and that they may elect to have such taxes deducted from their payment of

unemployment compensation. All amounts deducted will be held in the unemployment compensation fund until transferred to the appropriate taxing authority as payment of taxes.

This is an administration bill which received favorable testimony from the Department of Taxation and the Department of Labor and Industrial Relations.

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

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2850, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2850, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Anderson).

SCRep. 1887 Agriculture, Labor, and Employment on S.B. No. 3012

The purpose of this bill is to extend health and dental benefits to an unmarried child of a retired member of the Employees' Retirement System who is under the age of twenty-three and a full-time student.

The bill does this by amending the definition of "employee-beneficiary" in Chapter 87, Hawaii Revised Statutes, to include these dependents as part of the beneficiary class.

Your Committee finds that a number of retirants of the Employees' Retirement System have unmarried children under the age of twenty-three that are full-time students. Providing health and dental care benefits to these dependents would relieve retirants of the Employees' Retirement System on a fixed income of costly health and dental insurance premiums.

Understanding the financial situation that many retirants are in, your Committee is also aware of the State's strained fiscal position and must scrutinize the provision of additional benefits very carefully.

In reviewing the testimony presented, your Committee finds that although providing health benefits to these dependents would amount to a nominal increase in cost to public employers, providing dental benefits to these dependents would amount to a sizeable increase. Your Committee believes that the State is not financially able to provide for such additional contributions.

In light of this belief, your Committee has amended the bill by deleting the provision of dental benefits to the proposed employee-beneficiaries.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3012, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3012, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Anderson).

SCRep. 1888 Agriculture, Labor, and Employment on S.B. No. 3237

The purpose of this bill is to raise the State's minimum wage.

Specifically, the bill raises the State's minimum wage from \$5.25 to \$5.50 as of January 1, 1997, and then to \$5.75 as of January 1, 1999.

Your Committee finds that Hawaii ranks second highest in the nation's cost of living index and first in terms of home purchase and rental costs. The U.S. Department of Labor estimates Hawaii's total living expenses at twenty-five per cent above the national average.

Your Committee notes that the Retail Merchants of Hawaii, recognizing that the increases contained in the bill reflect only cost of living increases, testified in support of the bill.

Your Committee believes that the State's minimum hourly wage should be raised in order to provide adequate opportunity to the citizens of Hawaii to earn a decent wage and sustain a lifestyle above the Federal Poverty Level.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3237 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Solomon).

SCRep. 1889 Judiciary on S.B. No. 2261

The purpose of this bill is to broaden the scope and discretion of the functions of the Office of Youth Services to give the office greater responsibility for juvenile delinquency and the rehabilitation of children.

The treatment and rehabilitation of youth at risk and adjudicated youth should be as efficient as possible to ensure a prudent use of state resources in this area so as to be able to treat the greatest number of youth possible. At present, while the Office of Youth Services has authority over Hawaii's youth corrections system, due to difficult economic times the Office of Youth Services has been unable to develop a much-needed continuum of community-based programs for these youth. The absence of these programs severely limits the sentencing options of the Family Court and results in too many juveniles being committed to the Hawaii youth correctional facility.

While there is little question about the important role Hawaii's family courts have played over the years, the fact remains that the juvenile justice system remains fragmented and uncoordinated as all three branches of government have sought a solution to the problem.

The current system does not allow the prioritization of needs or proper utilization of scarce resources. Providers can have contracts with as many as five separate agencies -- the Department of Education, the Department of Health, the Department of Human Services, the Department of Public Safety, and the Family Court. While the Hawaii family courts have had a long and distinguished record of service to the youth of Hawaii, efficient administration requires the centralization of youth services, including detention and probation services currently administered by the Family Court. Better public policy demands that we "front load" the system to treat and rehabilitate status offenders and youth at risk before it is too late.

While it is true that a division of views exists on this subject, your Committee finds that it is in the public interest to consolidate all these functions related to troubled youth. Additionally, the creation of a Juvenile Justice Management Commission whose primary duty is to make recommendations regarding policies and procedures of the Office of Youth Services regarding treatment and rehabilitation of youth at risk will be an essential element of a successful youth treatment program. Phasing in the implementation of the program over a two year period will give the affected agencies time to meet in forum with the Juvenile Justice Management Commission and resolve any existing conflicts.

Your Committee has amended the bill by:

- (1) Revising the responsibilities and duties of the Office of Youth Services;
- (2) Deleting the State Advisory Board on Youth Services;
- (3) Deleting the provisions relating to release on after-care supervision, health care and educational standards, aiding runaways, transportation of children, relieving the office of custody of children, and transfer of children to another state;
- (4) Establishing the Juvenile Justice Management Commission to review the activities of the Office of Youth Services and the Family Court regarding the rehabilitation and treatment of youth committed to the custody or supervision of the office;
- (5) Establishing a system of maintaining records about the committed youths;
- (6) Establishing the youth services programs revolving fund;
- (7) Requiring the Office of Youth Services and the Judiciary to submit a report to the Governor and the Legislature prior to the regular sessions of 1997 and 1998 regarding the implementation of the Act;
- (8) Transferring designated purchase of service funds from the Judiciary to the jurisdiction of the Office of Youth Services; and
- (9) Staggering the effective dates so that the full implementation of this Act is completed in 1998.

As affirmed by the records of votes of the members of your Committee on Judiciary that are attached to this report, your Committee 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 the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (McCartney, Anderson).

SCRep. 1890 Judiciary on S.B. No. 2761

The purpose of this bill is to declare a gift certificate or credit memo, which contains an expiration date of less than five years, to be abandoned property on its expiration date.

In addition, this bill requires the issuer of an expired gift certificate or credit memo to remit the amount declared to be abandoned to the Department of Budget and Finance for disposition.

Your Committee finds that gift certificates and credit memos that are unclaimed by the owner for more than five years are presumed to be abandoned. Property deemed to be abandoned must be reported and turned over by the merchant to the Department of Budget and Finance for distribution to the owner of the property. If the owner of the property fails to make a claim, the abandoned property escheats to the state general fund.

Current law requires gift certificates to be valid for a minimum of one year. If the certificate recipient is unable to redeem the certificate within one year, the issuer is required to extend the life of the certificate for an additional year. In essence, the law requires gift certificates to be valid for a minimum of two years. Based upon a recent enforcement action

conducted by the Office of Consumer Protection, it appears that a significant number of merchants now offer gift certificates that are valid for two years. Under the current law, if the gift certificate is not redeemed within the two-year period and expires, the merchant must hold the gift certificate for an additional three years before it is deemed to be abandoned. There appears to be no logical reason to have a delay between the expiration date of the gift certificate and the date upon which the gift certificate is deemed to be abandoned.

Your Committee received testimony in support of this bill from the Department of Commerce and Consumer Affairs. The Retail Merchants of Hawaii and Liberty House testified that they would support this bill if it specifically exempted gift certificates and credit memos without expiration dates.

Your Committee has amended this bill by:

- (1) Specifying that a gift certificate or credit memo shall not be declared to be abandoned property if it does not contain an expiration date; and
- (2) Making a technical, nonsubstantive change for purposes of consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of 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 the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Chumbley, Anderson).

SCRep. 1891 Judiciary on S.B. No. 3196

The purpose of this bill is to appropriate funds to the Department of Public Safety to provide for more minimum security beds at Waiawa Community Correctional Center.

Your Committee appreciates that the City and County of Honolulu has agreed to expedite the permitting process for installation of infrastructure at the Waiawa correctional facility, which will allow the Department to house additional inmates in fiscal year 1996-1997, instead of delaying the expansion until fiscal year 1997-1998. Accordingly, based upon the recommendation of the Department of Public Safety, your Committee has moved the Department's budget request of \$900,000 up one year to permit earlier construction, funds permitting.

Furthermore, your Committee has received testimony from the Department of Public Safety acknowledging that public safety is being compromised as a result of weaknesses in the prison furlough program. Your Committee sought assurances from the Department that incidents such as the rape of a 12-year-old girl on Maui by an inmate on work furlough; the 48 escapes in the last year from the Laumaka Work Furlough Center in Kalihi; and the inmate who robbed three banks and attempted to rob a fourth while on job seeking furloughs from Laumaka would not be repeated. The Department was unable to provide any assurances as inmates are being "force-fed" into work furlough programs as a result of prison overcrowding. Rather than treating the symptoms, your Committee has chosen to treat the cause: prison overcrowding.

Your Committee believes that the compromise of public safety must be addressed and that an immediate solution is necessary to respond to the public's concerns. Your Committee has concluded that more inmates need to be sent out-of-state. While your Committee recognizes and understands that resources are very limited at this time, your Committee believes that public safety must not be compromised and the additional out-of-state transfers of inmates will relieve the pressure on our correctional system so that it operates as the Legislature intended.

Your Committee has amended this bill by:

- (1) Deleting the language in section 2 with respect to staffing for detention facilities and all of the existing section 3;
- (2) Appropriating \$900,000 for the Waiawa correctional facility expansion project for fiscal year 1996-1997; and
- (3) Appropriating \$2,415,955 for the transfer of one hundred fifty inmates to Texas.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3196, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3196, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Anderson).

SCRep. 1892 Agriculture, Labor, and Employment on S.B. No. 2800

The purpose of this bill is to exempt administrative service officers, division heads, and directors of state agencies from civil service.

Your Committee finds that division heads are key administrators and are critical in the success or failure of implementing an administration's policies and objectives. Providing the administration with the flexibility to pick its own management team is necessary in order to make government operate more efficiently.

Your Committee has amended the bill by adding administrators of correctional facilities and centers to the list of proposed exempt positions and by requiring the appointing authority to establish rules to ensure that a regular employee who is appointed to such an exempt position is provided with a right to return to civil service upon completion of the employee's tenure as an appointed employee. Your Committee has also added a provision that allows employees who currently occupy the positions affected by the bill to remain in civil service, thereby making the actual implementation of the measure prospective as vacancies occur.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2800, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2800, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Anderson).

SCRep. 1893 Agriculture, Labor, and Employment on S.B. No. 3192

The purpose of this bill is to require that once a dispute concerning the interpretation and application of a written agreement is submitted to arbitration in public employment collective bargaining disputes, any party who seeks to re-litigate substantially the same issue and does not prevail shall pay the attorney's fees and costs of the prevailing party.

Your Committee finds that labor contract disputes often involve the same issues that were decided in a previous arbitration. In many instances, arbitration cases involve substantially similar issues which must be resolved de novo. This bill would remedy this unfair practice by eliminating the need to re-litigate substantially similar issues.

Your Committee has amended this bill to make a technical, nonsubstantive amendment.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3192, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3192, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Anderson).

SCRep. 1894 (Joint) Education and Agriculture, Labor, and Employment on S.B. No. 3020

The purpose of this bill, as received by your Committees, is to delete the obsolete statutory salary schedules for teachers and educational officers.

Your Committees find that the application of the teacher and educational officer salary schedules in the statutes has been superseded by ongoing negotiation of the salary schedules through collective bargaining. Your Committees further find that this measure clarifies that the authority to negotiate salary schedules shall be retained as part of the collective bargaining process.

Your Committee has amended this bill by setting the per diem rate for substitute teachers at the salary rate for a class II teacher entry step, beginning July 1, 1996.

As affirmed by the records of votes of the members of your Committees on Education and Agriculture, Labor, and Employment that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 3020, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 3020, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.
Ayes, 9. Noes, none. Excused, 1 (Anderson).

SCRep. 1895 Health on S.B. No. 2792

The purpose of this bill is to amend the reproductive rights protection committee statute to exclude the state planning council on developmental disabilities from participating in the committee and to remove the committee's ability to hire staff.

Your Committee agreed with the recommendation of the state planning council on developmental disabilities and amended this bill by conditioning the implementation of the Act on the execution of a memorandum of understanding, between the department of health and the council, which preserves confidentiality and stipulates noninterference by the department.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2792, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2792, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kawamoto).

SCRep. 1896 Education on S.B. No. 2087

The purpose of this bill is to allow public schools to retain moneys collected by the schools from penalties, reimbursements, fees for rental of school facilities, and charges for late and non-returned books.

Your Committee finds that certain moneys presently collected by the schools are deposited into the school special fees revolving account established pursuant to Act 218, Session Laws of Hawaii 1995. Your Committee further finds that the ceiling on this revolving account is well-below the amount of moneys which potentially could be collected by the schools, and thus this ceiling needs to be increased to provide an incentive to the schools to collect additional moneys. Your Committee also suggests that this revolving account should be exempt from section 36-30, Hawaii Revised Statutes, related to the reimbursement to the state general fund for administrative expenses since this fund is not administered at the state level, but defers these matters for further consideration by the Committee on Ways and Means.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2087 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Matsunaga, Tam).

SCRep. 1897 Health on S.B. No. 2139

The purpose of this bill is to ensure that timely and adequate mental health care services are provided to the citizens of the County of Hawaii.

Specifically, the bill allows the Department of Health to establish a three year pilot project to contract out mental health care services for the County of Hawaii.

Your Committee finds that Hawaii is one of the last states in the nation continuing to deliver mental health services directly from a central administration. According to the State Health Planning and Development Agency's report pursuant to Senate Concurrent Resolution No. 186, 1995, this system does not work in the County of Hawaii and has resulted in serious problems. Vendors of goods and services must wait months for payment if they try to do business with the State. A further effect is that the services are scarce, inflexible, and fragmented. This situation contributes to the high incidence of social problems in the County of Hawaii and increases the need for many contracted services obtained through purchases of service.

Your Committee has amended the bill by making the pilot project optional and authorizing the Department of Health to hire a licensed psychiatrist who is a resident of the County of Hawaii or contract for the services of a non-resident psychiatrist, if necessary.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2139, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2139, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kawamoto).

SCRep. 1898 Health on S.B. No. 2215

The purpose of this bill is to transfer the state planning council on developmental disabilities from the department of health to the department of commerce and consumer affairs, clarify the council's responsibilities regarding the deinstitutionalization of the Waimano Training School and Hospital, and modify the council's advocacy role by requiring that it submit an analysis of the proposed legislative budget to the governor and legislature.

Your Committee agreed with the testimony of the department of health and the department of commerce and consumer affairs stating that the transfer between departments was not warranted. Your Committee agreed with and addressed the nonintervention concerns raised in the testimony of the state planning council on developmental disabilities.

Your Committee amended this bill by eliminating the transfer of the council from the department of health to the department of commerce and consumer affairs; establishing nonintervention guidelines for the department of health's oversight of the council; and conforming the statutory language with the use of the phrase "persons with developmental disabilities".

Your Committee included a repeal date of June 30, 1997 for the nonintervention provision in this bill because the council intends to continue to investigate other alternatives for a designated state agency to oversee its activities.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2215, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2215, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kawamoto).

SCRep. 1899 Health on S.B. No. 2220

The purpose of this bill is to permit family burial plots to be registered with the department of health if interment occurred before June 4, 1967, and to permit family members to be buried in a family burial plot.

Your Committee finds there is substantial cultural value in perpetuating the family tradition of burying family members in existing family burial plots situated on family property. Your Committee incorporated the testimony and recommendations of the professional and vocational licensing division of the department of commerce and consumer affairs to create an express provision allowing the practice of burying family members in family burial plots. The department of health testified that there is no public health reason to prohibit such a practice.

Your Committee amended this bill by deleting all of the substantive provisions and replacing them with the creation of a new section in the cemetery and funeral trusts law which permits family members to be buried in family burial plots located on their property.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2220, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2220, S.D. 1, and be referred to the Committee on Transportation and Government Affairs.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kawamoto).

SCRep. 1900 Health on S.B. No. 2283

The purpose of this bill, as received by your Committee, is to prohibit medical physicians from referring a patient to a laboratory or health care provider for services or tests where the physician has a financial interest.

Your Committee finds that medical physicians often operate in an environment in which various health care service providers are linked through a business corporation. Your Committee further finds that in rural areas, medical physicians may be required to refer patients to providers with shared business interests, because there may only be one provider of that type of service in the area.

Your Committee has amended this bill by:

- (1) Exempting physicians providing services to a federally designated "medically underserved population", "medically underserved community", or "health professional shortage area";
- (2) Prohibiting osteopathic physicians from making referrals in which they have financial interests; and
- (3) Making technical, nonsubstantive changes for the purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee 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 referred to the Committee on Consumer Protection.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kawamoto).

SCRep. 1901 Health on S.B. No. 2386

The purpose of this bill is to issue general obligation bonds in the amount of \$3,500,000, to be expended by the department of accounting and general services to design, construct, and equip a long-term care wing at Kohala hospital. The appropriation shall not lapse at the end of the fiscal biennium. However, any unencumbered sum as of June 30, 1998, shall lapse.

Your Committee finds that the appropriation will benefit the residents of the community of Kohala.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2386 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kawamoto)

SCRep. 1902 Health on S.B. No. 2444

The purpose of this bill is to appropriate \$75,000 from the general revenues of the State, to be expended by the department of health to purchase five renal dialysis machines to be installed at Saint Frances Hospital at Hilo, Hawaii.

Your Committee finds that appropriating the money would benefit the residents of Hilo, Hawaii and facilitate their treatment.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2444 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kawamoto).

SCRep. 1903 Health on S.B. No. 2509

The purpose of this bill is to establish a Hospital Cooperation Act.

Your Committee finds that:

- (1) Technological and scientific developments in hospital care have enhanced the prospects for further improvement in the quality of care provided by Hawaii hospitals to Hawaii citizens;
- (2) The cost of improved technology and improved scientific methods for the provision of hospital care is in significant part responsible for the increasing cost of hospital care. Cost increases make it increasingly difficult for hospitals in rural parts of the State to offer care;
- (3) Changes in federal and state regulations governing hospital operation and reimbursement have constrained the ability of hospitals to acquire and develop new and improved machinery and methods for the provision of hospital and hospital-related care;
- (4) Cooperative agreements among hospitals in the provision of hospital and hospital-related services may foster further improvements in the quality of health care for Hawaii citizens, moderate increases in cost, improve access to needed services in rural parts of the State, and enhance the likelihood that smaller hospitals in Hawaii will remain open in service to their communities;
- (5) Hospitals are in the best position to identify and structure voluntary cooperative arrangements that enhance quality of care, improve access, and achieve cost-efficiency in the provision of care; and
- (6) Because competition is important to the health care sector and some cooperative agreements may have anti-competitive effects that would operate to the detriment of the public, regulatory and judicial oversight of cooperative agreements is necessary to ensure that the benefits of agreement outweigh any disadvantages attributable to any reduction in competition likely to result from the agreements.

Your Committee believes that the Hospital Cooperation Act is therefore necessary to enact change in the way health care is provided in the State.

Your Committee has amended the bill by:

- (1) Moving the findings and purpose section of the bill from statute to session law;
- (2) Clarifying the definition of "hospital";
- (3) Removing the provision that exempts mergers and consolidations involving licensed hospitals from the purview of the bill;
- (4) Removing the Department of Health's authority to assess an annual fee from licensed hospitals to pay for the enforcement of the Hospital Cooperation Act;
- (5) Making technical and stylistic amendments that have no substantive effect.

Your Committee believes that the bill help ensure the provision of quality health care for the people of the State.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2509, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2509, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kawamoto).

SCRep. 1904 (Joint) Health and Ecology and Environmental Protection on S.B. No. 2534

The purpose of this bill is to appropriate \$362,000 from the general revenues of the State, to be expended by the University of Hawaii school of public health to conduct public health studies on the effects of "vog" on residents of Hawaii.

Your Committees find there has not been a long-term examination of the chemical and particulate content of Kilauea's emissions, nor risk levels to humans. Specifically, more research is needed to determine the concentration levels and distribution patterns of certain volcanic aerosols and gases, and correlate their presence with morbidity patterns on the island.

Your Committees have made nonsubstantive, technical amendments for clarity.

As affirmed by the records of votes of the members of your Committees on Health and Ecology and Environmental Protection that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2534, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2534, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.
Ayes, 5. Noes, none. Excused, 3 (Chumbley, Ikeda, Kawamoto).

SCRep. 1905 Health on S.B. No. 2546

The purpose of the bill is to increase penalties for persons who sell cigarettes to minors.

Currently, the fine for a first offense is not more than \$100, and for a subsequent offense the fine is not less than \$100 nor more than \$1,000. The bill sets a fine of \$2,500 for the first offense and \$5,000 for subsequent offenses.

Testimony submitted by the Director of Health, the Honolulu Police Department, American Lung Association, Hawaii Nurses' Association, Hawaii Medical Association, American Cancer Society, and the Department of Liquor Control of the County of Hawaii supported passage of the bill.

Upon further consideration, your Committee amended the bill by re-inserting the phrase "not more than" before the new penalty amount of \$2,500; by deleting the "of" before the new penalty amount of \$5,000; and re-inserting the phrase "not less than \$100 nor more than" before the \$5,000.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2546, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2546, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, none.

SCRep. 1906 Health on S.B. No. 2662

The purpose of this bill is to remove the provision of case management services independent of the direct service provider from the responsibilities of the department of health under the developmental disabilities system.

Your Committee agreed with the testimony of the director of health and the state planning council on developmental disabilities and finds there is a need for an independent case management system for persons with developmental disabilities. Your Committee further finds that additional time is required to develop the infrastructure and implementation strategy of the case management system.

Your Committee amended this bill by suspending the implementation of the department of health's responsibility to provide independent case management services for persons with developmental disabilities until July 1, 1997; requiring the department of health to submit a plan to the legislature no later than December 1, 1996, describing how the department intends to implement its case management responsibilities; and requiring that a joint response of the commission on persons with developmental disabilities and the state planning council on developmental disabilities to the department's proposed plan be submitted to the legislature no later than January 1, 1997.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 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 the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kawamoto).

SCRep. 1907 Health on S.B. No. 2772

The purpose of this bill is to prohibit the sale of cigarettes in packages containing less than twenty cigarettes and to impose a fine for the violation of the prohibition.

Your Committee finds that the sale of cigarettes to children and adolescents is an all too common practice in our State. Your Committee further finds that the marketing of single cigarettes as a means of inducing children to smoke is increasing. Your Committee feels that the marketing or distribution of single cigarettes, which are also known as "kid packs", has no place in our community.

Your Committee adopted the recommendations of the department of health and amended the bill by placing the ban in the section prohibiting the sale of tobacco to minors; creating a new section under the offenses related to drugs and intoxicating compounds section of the Hawaii Penal Code prohibiting such sale altogether; and increasing the penalties for violation of the existing provision.

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

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kawamoto).

SCRep. 1908 Health on S.B. No. 2774

The purpose of this bill is to add the definitions of "prescription", "prescription drug", and "pharmacy intern" to the food, drugs, and cosmetics law; clarify prescription requirements; and make the dispensing of outdated prescriptions a violation of the food, drugs, and cosmetics law.

Your Committee finds there is a public health and safety need to ensure that prescriptions are written and filled properly and outdated drugs of questionable quality are not issued to consumers.

Your Committee amended this bill by including persons authorized by a practitioner in the class of persons allowed to request that a prescription be filled, and by making technical, nonsubstantive amendments for clarity.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2774, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2774, S.D. 1, and be referred to the Committee on Consumer Protection.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kawamoto).

SCRep. 1909 Health on S.B. No. 2780

The purpose of this bill is to create a newborn metabolic screening special fund in the State treasury.

All moneys for newborn metabolic screening will be deposited into the fund and be used to pay for expenses of testing, equipment, and other related costs.

This is an administration bill intended to create a self-sustaining means of financing this necessary and required testing of newborns for certain life-threatening diseases or diseases causing severe mental and physical handicaps, which are treatable with early detection.

The practical effect of this bill would be to centralize the testing in one contracted laboratory rather than the current four. This would reduce the fees charged for the testing by several dollars.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2780 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kawamoto).

SCRep. 1910 (Joint) Health and Higher Education, Culture, and Arts on S.B. No. 2781

The purpose of this bill is to require the Department of Health to consult and coordinate with the University of Hawaii or other accredited colleges or professional organizations for training for basic life support personnel.

This bill also amends Act 218, Session Laws of Hawaii 1995, relating to the state budget, to change the appropriations for operating expenditures for emergency medical services to the Kapiolani Community College.

The effect of this bill is to transfer the responsibility for the training of life support personnel from the Department of Health to the University of Hawaii, where the Kapiolani Community College has provided this training since 1985. Although the training will be transferred, the Department of Health will still be responsible for oversight and quality assurance of the training program.

Your Committees have amended this bill by inserting the suggested language from the testimony of the representatives of the Kapiolani Community College regarding the transfer of personnel and privileges, and by making technical, nonsubstantive amendments.

As affirmed by the records of votes of the members of your Committees on Health and Higher Education, Culture, and Arts that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2781, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2781, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.
Ayes, 7. Noes, none. Excused, 4 (Fernandes Salling, Ikeda, Iwase, Kawamoto).

SCRep. 1911 Health on S.B. No. 2787

The purposes of this bill are to remove the selling or dispensing of imitation milk and imitation milk products in certain public eating establishments from the list of prohibited acts under the Hawaii food, drug, and cosmetic act; amend the rulemaking section of the Hawaii food, drug, and cosmetic act by removing the director of health's authority to issue permits for interstate shipment of experimental packs of food varying from the requirements of federal definitions and standards of identity; repeal the display of unpackaged processed food section of the Hawaii food, drug, and cosmetic act; repeal the parts regulating the cold storage of food, frozen food products, and the enrichment of bread and flour, under the food, drugs, and cosmetics law; and repeal the section designating the duties of the director of health under the litter control law.

Your Committee has determined that the director of health should retain the authority to issue permits for interstate shipment of experimental packs of food varying from the requirements of federal definitions and standards of identity and continue to be responsible for administration of the litter control laws. Accordingly, your Committee amended this bill by reinserting the authority for issuing interstate shipping permits into the rulemaking authority section of the Hawaii food, drug, and cosmetic act, and eliminated the repeal of the director's duties under the litter control act. Your Committee also has made technical, nonsubstantive changes to the bill for purposes of style.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2787, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2787, S.D. 1, and be referred to the Committee on Consumer Protection.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, none.

SCRep. 1912 Health on S.B. No. 2795

The purpose of the bill is to make an emergency appropriation of \$7,032,377 for the child and adolescent mental health program of the department of health, to prevent the reduction or discontinuance of payments for services to emotionally disturbed children and adolescents.

While agreeing with the need to fund the child and adolescent mental health program, your Committee finds there is insufficient evidence to justify the \$7,032,377 requested by this bill. Your Committee is concerned that in difficult budget times, other equally important programs and needs could benefit from a portion of the \$7,032,377, if such amount is available at all.

Your Committee has amended the bill by deleting the amount of the appropriation from the bill.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2795, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2795, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, none.

SCRep. 1913 (Joint) Health and Communication and Public Utilities on S.B. No. 2798

The purpose of this bill is to appropriate funds for the development of a telemedicine network in the State.

Your Committees find that the art and science of medicine has advanced significantly over the past decade. New technologies for use in diagnostic and surgical procedures, treatment, and critical care management have increased the sophistication of medicine and health care dramatically. Paralleling these advances in medical and health care delivery have been the increased availability and capability of satellite and fiber optic-based telecommunication networks for distant interactive dialog and high quality video transmission. At the same time, in this era of ever-evolving use of technology in medicine and communications is the corresponding reinforcement of the importance of primary care and prevention services, as well as early intervention in the treatment of disease, as the most effective approach to keeping our population healthy.

Hawaii has a strong tradition of innovation and commitment to ensure that the highest quality and most cost effective health services are available to our residents across the State. However, access to the sophisticated advances in medical services remain largely limited to urban areas. Your Committees believe that it is time to take the next big step forward and develop the infrastructure needed to make the best use of public and private resources available and capitalize on the progress made to date in Hawaii and elsewhere in the development of telemedicine capability and availability, especially with respect to the use in primary health care services, throughout the State.

Given the State's current fiscal crisis, your Committees have amended the bill by deleting the appropriation and requiring the Department of Health to organize and oversee the administration of a public/private partnership to plan and develop the infrastructure necessary to enhance medical care services in the State to the greatest extent possible by means of available telemedicine capability.

The public/private partnership shall address, in addition to other matters of relevant concern, the following:

- (1) Ways to enhance medical services available in Hawaii's rural areas by means of telemedicine capabilities;
- (2) Ways to enhance education and training of rural health care professionals by means of telemedicine capabilities; and
- (3) Ways to best leverage public and private resources to finance and deploy state-of-the-art telemedicine technologies throughout the State.

The amended bill also requires the Director of Health to report to the Legislature annually regarding the progress of the public/private partnership in accomplishing its goals.

Your Committees believe that this bill is an important first step in the future of Hawaii's health care delivery system in that it will enhance the medical services available in Hawaii's rural areas, provide the means for continued education and training of rural health care professionals, and continue the State's commitment to the health of Hawaii's people.

As affirmed by the records of votes of the members of your Committees on Health and Communications and Public Utilities that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2798, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2798, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.
Ayes, 7. Noes, none. Excused, 2 (Chumbley, Kawamoto).

SCRep. 1914 Health on S.B. No. 3024

The purpose of this bill is to appropriate an unspecified sum from the revenues of the State, to be expended by the department of health to provide ambulance services for the Waianae Coast Comprehensive Health Center.

Your Committee finds that providing ambulance services for the Waianae Coast Comprehensive Health Center would benefit the residents of the district.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3024 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kawamoto).

SCRep. 1915 Health on S.B. No. 3099

The purpose of this bill is to abolish and to establish specified personnel positions at the Kona Community Hospital.

Your Committee finds that this bill would enhance the operations the Kona Community Hospital by making it more efficient.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3099 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kawamoto).

SCRep. 1916 Health on S.B. No. 3165

The purpose of this bill is to extend immunity from liability for civil damages to hospitals and health care organizations which release health care data to public or private organizations for statutorily specified purposes.

Currently, all acute care hospitals in the State voluntarily submit data to the Hawaii Health Information Corporation, a private, nonprofit corporation established by the Healthcare Association of Hawaii, which represents all of the State's acute care hospitals, the Hawaii Medical Association, the Hawaii Medical Services Association, and the Hawaii Permanente Medical Group. The corporation gathers and analyzes data supplied by hospitals to augment quality and cost efficiency of the hospitals.

Present law, enacted in 1995, does not provide disclosure immunity to hospitals or health care organizations. As a result, providers of this information are reluctant to cooperate in furnishing the data. Therefore, the value of the data in analyzing the quality and cost-efficiency of medical services diminishes substantially because of a lack of a statistically significant base once providers do not release data. This bill would afford legal protection to providers in connection with furnishing the data.

Your Committee amended this bill by changing the effective date of the bill to the year 2000.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3165, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3165, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kawamoto)

SCRep. 1917 Health on S.B. No. 3198

The purpose of this bill is to transfer the Hana Medical Center from the State to a Hana nonprofit organization to promote a community-based health program.

The transfer of the operation of the Hana Medical Center to a locally situated nonprofit organization will help to ensure that the Center reacts quickly to local needs. The community of Hana needs the best health care that can be provided and this transfer will facilitate the provision of this health care.

Your Committee adopted the recommendations of the director of health to amend the bill by modifying the stipulation regarding the negotiation of lease arrangements for the ten acre area of the medical center campus; and substituting "a Hana-based nonprofit health care organization" in place of "Hana Health Committee", where appropriate. Accordingly, the language "or so much as agreed upon" was inserted to provide flexibility in carrying out the bill, and "a Hana-based nonprofit health care organization" was substituted, where appropriate. Your Committee also changed the date of the report to the legislature to twenty days prior to the convening of the 1997 session and made a technical, nonsubstantive amendment.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3198, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3198, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kanno).

SCRep. 1918 Agriculture, Labor, and Employment on S.B. No. 2141

The purpose of this bill is to prohibit the use of genetic testing as a prerequisite for employment, membership, or licensure.

Your Committee believes that mandatory genetic testing as a prerequisite for employment or membership constitutes a discriminatory practice.

Your Committee has amended the bill by:

- (1) Deleting the penalty provisions relating to requiring genetic testing as a condition of employment;
- (2) Deleting section 4 of the bill which deals with requiring genetic testing as a prerequisite for licensure; and
- (3) Making technical amendments for the purpose of clarity.

Your Committee believes that sufficient penalties exist to prevent such discriminatory practices.

Your Committee also believes that the intent of the bill is not to penalize the Department of Commerce and Consumer Affairs' (DCCA) Professional and Vocational Licensing Division, which is the licensing agency for forty-six licensed professions and which has no intention of requiring any form of genetic testing as a condition for licensure. The bill as introduced, would in effect, penalize the DCCA. In light of this understanding, your Committee has deleted the related section from the bill.

Your Committee notes that according to the testimony presented by the Chamber of Commerce of Hawaii, certain biological testing procedures required by the State's Occupational Safety and Health laws may be affected by this bill. It is not your Committee's intent that this bill in any way impair the testing requirements of Chapter 396, Hawaii Revised Statutes.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2141, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2141, S.D. 1, and be referred to the Committee on Consumer Protection.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Solomon).

SCRep. 1919 Agriculture, Labor, and Employment on S.B. No. 2836

The purpose of this bill is to adjust how an employer's normal cost and accrued liability contributions are calculated by the Employees' Retirement System.

Specifically, the bill extends the actuarial valuation of eight percent for the Employees' Retirement System's investment yield rate to June 30, 2000, and lowers the assumed salary assumption rate from six and one-half percent to four percent.

Your Committee believes that, taking into account the State's current fiscal crisis, a lower salary assumption rate of four percent is more realistic. Additionally, lowering the salary assumption rate concurrently lowers a public employer's contribution to the Employees' Retirement System, thus allowing the public employer to redistribute funds originally allocated for this purpose.

Your Committee has amended the bill by adding a section that repeals from section 88-107, Hawaii Revised Statutes, the provision that requires earnings of the Employees' Retirement System in excess of the statutorily established investment yield rate to be credited against a public employer's contributions to the Employees' Retirement System.

Your Committee believes that the repeal of the excess earnings credit to public employers is financially advantageous to the State in that it will:

- (1) Result in over \$231.8 million being saved in public employer contributions over the next two years;

- (2) Reduce the public employers' concern over the financial volatility of fluctuating employer contributions from year to year since the excess earnings and shortfalls will be amortized over the employees' working careers;
- (3) Allow the Employees' Retirement System to maximize its investment earning capacity without worrying about contribution volatility;
- (3) Produce lower employer contributions in the long term; and
- (4) Allow the Employees' Retirement System to reduce its large unfunded liability to the point where it could become fully funded within ten years.

Additionally, your Committee believes that, based on the three year contribution credit lag formula, coupling the Employees' Retirement System's ability to retain its excess earnings with a four percent salary assumption will result in an immediate windfall of approximately \$42.5 million to the State General Fund for fiscal year 1996-1997.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2836, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2836, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Anderson).

SCRep. 1920 Health on S.B. No. 3229

The purpose of this bill is to streamline the functions of the State Health Planning and Development Agency (SHPDA) and to repeal it in the year 2001.

This bill is an outgrowth of a task force established pursuant to Senate Concurrent Resolution No. 243, 1995, to request the Department of Health to convene a task force to review the responsibilities and functions of SHPDA. Your Committee recognized that there was and is considerable debate and question about the current design, responsibilities, and functions of SHPDA.

This bill would streamline the certificate of need process to be more efficient and effective in regulating and controlling health care costs. Your Committee notes that the Governor has expressed his preference to abolish SHPDA in an effort to cut government red tape. However, your Committee believes that this bill is a prudent compromise for now.

Your Committee is aware that marketplace economic forces may have largely prevented the kinds of problems in containing medical costs for which SHPDA was once intended to correct. These forces are fixed fee schedules, health maintenance organizations, discounted fees for preferred provider status, and capitation payments. These arrangements are an effective deterrent against duplication and unnecessary services. However, more time is necessary to ascertain if SHPDA is necessary, and if so, what form and function it should have.

Your Committee received testimony in support of this bill from many health care providers and associations.

Your Committee has amended this bill by deleting section 17, relating to the repeal of SHPDA, and by changing the effective date to July 1, 2000, for the entire bill to ensure further discussion. Your Committee has also made technical, nonsubstantive amendments.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3229, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3229, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kawamoto).

SCRep. 1921 Health on S.B. No. 2387

The purpose of this bill is to authorize the use of lands within agricultural districts for long-term care and assisted living facilities.

Your Committee finds that authorizing the use of agricultural lands for long-term care and assisted living facilities would benefit the citizens of this State.

Your Committee also finds that this bill is supported by the Assisted Living Options Task Force who cited a recent newspaper article entitled Nursing Home Shortage A Crisis.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2387 and recommends that it pass Second Reading and be referred to the Committees on Agriculture, Labor, and Employment and Planning, Land and Water Use Management.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kawamoto).

SCRep. 1922 Health on S.B. No. 2495

The purpose of this bill is to repeal the language in the peer review statute defining records of hospital or clinic quality assurance committees; repeal the specific exclusions from protected information; repeal the exclusion of original sources of information, documents, or records from protection of the section; and repeal the prohibition relating to discovery not applying to statements made by any person attending the hearing who is a party to an action the subject of which was reviewed at the hearing, or to a person requesting hospital staff privileges, or in an action against an insurance carrier alleging bad faith.

Your Committee finds the promotion of free discussion in peer review and quality assurance procedures is critical to the maintenance of quality medical care and requires the protection of immunity from discovery. Your Committee also recognizes the need for access to information which has evidentiary value for investigations of allegedly wrongful or negligent acts, and has an independent existence from the peer review and quality assurance procedures.

In recognition of the concerns raised by the testimony submitted by the department of commerce and consumer affairs and the Consumer Lawyers of Hawaii, your Committee amended this bill by re-inserting the language defining records of hospital or clinic quality assurance committees, the specific exclusions from protected information, and the exclusion of original sources of information, documents, or records. Your Committee also amended this bill by making it effective on July 1, 2000 for purposes of ensuring further discussion on this matter.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2495, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2495, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kawamoto).

SCRep. 1923 Health on S.B. No. 2782

The purpose of this bill is to confer state or county employee status on emergency medical response volunteer personnel while engaged in an emergency disaster condition.

This administration bill would also confer workers' compensation benefits on those volunteers and their dependents in case of their injury or death in the performance of their duty and extend immunity from liability for the official performance of their duties. Disaster conditions and mass casualty events are defined.

Although protection for volunteer medical personnel is provided under chapter 128, Hawaii Revised Statutes, relating to civil defense emergencies, the critical period between the onset of the disaster and the official declaration of a disaster is not covered. Your Committee believes that the State needs to afford volunteer medical personnel these kinds of protections and immunities to create an incentive for medical volunteers to come forth in those times they are most needed.

Your Committee has amended this bill by making technical, nonsubstantive amendments.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2782, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2782, S.D. 1, and be referred to the Committee on Transportation and Government Affairs.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kawamoto).

SCRep. 1924 Health on S.B. No. 3058

The purpose of this bill is to allow designated persons to make health care decisions for an incapacitated person who has not executed a health care directive for medical decisions such as a living will or other advance directive.

Your Committee finds that maintaining the autonomy and dignity of people in matters relating to health care decisions is of the utmost importance. Your Committee agrees with the testimony of the Hawaii Nurses' Association, Hawaii Long Term Care Association, Kuakini Health System, Healthcare Association of Hawaii, and Hawaii Medical Association supporting passage of this bill. Your Committee took note of and addressed the concerns raised in the testimony of Hawaii Right to Life by including its recommended language in this bill.

Your Committee amended this bill by requiring that when health care providers or institutions decline to comply with an individual instruction or health care decision, the health care provider or institution must comply with the instructions of the patient or the patient's surrogate decisionmaker until a transfer to another health care provider or institution is achieved. Your Committee further amended this bill by providing that the withholding of artificial feedings and fluids be permitted only in cases where the patient is determined to be in a terminal condition.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3058, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3058, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kawamoto).

SCRep. 1925 Health on S.B. No. 3242

The purpose of this bill is to amend the law concerning informed consent to medical treatment.

Present law, set forth in section 671-3, Hawaii Revised Statutes, provides that the Board of Medical Examiners (BME) shall establish standards for health care providers to follow in giving information to patients. Further, the statute also provides that if the standards established by the BME reasonably inform a patient of certain statutorily specified matters, such as the condition being treated, and the nature of the treatment, then the standards are admissible as evidence of the standard of care required of health care providers.

Under the proposed bill the standards would not be established by the BME. Instead the standards to be met when medical practice requires a patient's consent are set forth in the statute. Further, the bill allows the withholding of information if in the sole discretion of the health care provider the information would not be in the best interest of the patient. The bill also expressly requires patients to prove as necessary elements of any claim for the breach of the health care provider's duty to secure an informed consent to medical treatment, that:

- (1) The health care provider failed to inform the patient of material facts relating to the treatment;
- (2) The patient consented to the treatment without being aware of material facts;
- (3) A reasonably prudent patient under similar circumstances would not have consented to treatment if informed of such material facts; and
- (4) The treatment proximately caused the injury to the patient.

Lastly, the matters to be disclosed to the patient under the proposed statutory standards, except for the failure to inform of facts relating to treatment, are material facts to be proven by expert testimony.

Your Committee has amended the effective date of this bill to provide that it shall take effect on July 1, 2000. The purpose of the amendment is to keep this bill alive, but to require more consideration and discussion of its provisions and its impact.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3242, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3242, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kawamoto).

SCRep. 1926 (Joint) Communication and Public Utilities and Consumer Protection on S.B. No. 640

The purpose of this bill is to require the Director of Commerce and Consumer Affairs to work with the Cable Advisory Committee and cable operators to increase the number of new public access channels in each service area by December 31, 1996.

Your Committees strongly support the efforts of Hawaii's public, educational, and government (PEG) access providers. Their range of high quality, commercial free programming includes proceedings of the state legislature, which offers many neighbor island residents their only direct link to the legislative process.

Your Committees find that because of limited channel capacity of these PEG access providers, and the growing popularity of PEG access programming, more PEG channels need to be made available.

Your Committees believe that the legislature can facilitate an increase in PEG channel availability by requiring that each prospective cable franchise agreement or transfer of agreement provide equivalent levels of PEG access programming as the highest levels provided or to be provided within each county.

Your Committees have amended this measure by deleting language requiring the Director of Commerce and Consumer Affairs to work with the Cable Advisory Committee and cable operators to increase the number of PEG access channels in each service area by December 31, 1996, and by substituting language that requires that, for all new cable franchises or for cable franchise transfers, the levels of PEG access programming shall be consistent with the prevailing standard for that county.

Your Committees have also made several technical, nonsubstantive changes for purposes of style and clarity.

As affirmed by the records of votes of the members of your Committees on Communications and Public Utilities and Consumer Protection that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 640, S.D. 1, as amended herein, and recommend that it be referred to the Committee on Ways and Means, in the form attached hereto as S.B. No. 640, S.D. 2.

Signed by the Chairmen on behalf of the Committees.
Ayes, 11. Noes, none. Excused, 2 (Aki, Anderson).

SCRep. 1927 (Joint) Education and Judiciary on S.B. No. 2151

The purpose of this bill, as received by your Committees, is to establish a three year school-based violence prevention pilot project to implement integrated violence prevention curriculum from kindergarten through grade 12 in five selected school complexes.

Your Committees find that the escalation of violence in our society is manifest most often because of domestic abuse, which results in violent behavior exhibited by young children in their daily interaction with others. Your Committees further find that in order to address this cycle of violence, as a society we must take responsibility for communicating to our children that violence is not an appropriate response to problems nor a standard of conduct that we wish to perpetuate in our society. Thus, your Committees agree that violence prevention is the direction in which we must formulate policy, establish programs, and focus our resources.

Your Committees received strong support for this measure from many different constituencies, and acknowledge the efforts and participation of many organizations and members of our community in the development of this measure. Upon further discussion and consideration, your Committees have amended this bill by:

- (1) Making editorial corrections to Section 1 for the purposes of clarity and proper drafting style;
- (2) Placing the pilot project within the department of health rather than the department of the attorney general;
- (3) Requiring the Awareness Foundation to submit annual reports and audits to the department of health and the department of attorney general;
- (4) Requiring the department of health, in consultation with the department of education, to coordinate the violence prevention program;
- (5) Extending the repeal date for the violence coordination program from June 30, 1998 to June 30, 1999;
- (6) Appropriating funds for fiscal years 1996-1997, 1997-1998, and 1998-1999 for staffing for the violence prevention coordination program coordinator;
- (7) Authorizing rather than mandating the duties of the superintendent of education, the board of education, the University of Hawaii dean of the college of education, and the board of regents in regards to the pilot project;
- (8) Changing the date of submission of a financial and program review by the auditor from the 1998 to the 1999 regular session; and
- (9) Making technical, nonsubstantive changes for the purposes of clarity and style.

As affirmed by the records of votes of the members of your Committees on Education and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2151, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2151, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.
Ayes, 7. Noes, none. Excused, 2 (McCartney, Anderson).

SCRep. 1928 (Joint) Education and Agriculture, Labor, and Employment on S.B. No. 2543

The purpose of this bill is to transfer the school-to-work transition program and employees from the department of labor and industrial relations to the department of education.

Your Committees find that the school-to-work transition programs were established to provide services to high school students as they move from the classroom to the workplace or to higher education programs. Your Committees further find that since these programs are site-based within the public schools, it is more feasible for them to be placed within the department of education for administrative purposes.

As affirmed by the records of votes of the members of your Committees on Education and Agriculture, Labor, and Employment that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2543 and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.
Ayes, 9. Noes, none. Excused, 1 (Anderson).

SCRep. 1929 (Joint) Education and Agriculture, Labor, and Employment on S.B. No. 2763

The purpose of this bill is to authorize the department of education to continue to certify educational officers and temporary department personnel consistent with existing policy and procedures.

Your Committees find that Act 240, Session Laws of Hawaii 1995, established the Hawaii teacher standards board as an independent body for the purposes of setting standards for licensing of teachers paid under the salary schedule contained in the unit 5 collective bargaining agreement. Your Committees further find that the intent of Act 240 is to apply these standards only to the unit 5 teachers and, therefore, the department retains authority to certify educational officers and other temporary teaching personnel. Your Committees further note that the intent of this bill is to allow the department to continue existing policies and procedures related to the certification of educational officers and temporary teaching personnel, and it should not be construed to allow the department to impose new or additional certification requirements.

Your Committees have amended this measure by making technical, nonsubstantive changes for the purposes of clarity and proper drafting style.

As affirmed by the records of votes of the members of your Committees on Education and Agriculture, Labor, and Employment that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2763, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2763, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.
Ayes, 9. Noes, none. Excused, 1 (Anderson).

SCRep. 1930 (Joint) Education and Human Services on S.B. No. 2857

The purpose of this bill is to establish in law a private, nonprofit corporation for the purposes of coordinating policy, funding, and programs related to early childhood education and care.

Your Committees find that there is a critical need for systematic coordination of early childhood education and care services within the State. Your Committees agree that this coordination needs to involve both government agencies and the private sector in a collaborative effort. Your Committees further agree that the idea of creating and designating a private, nonprofit corporation for such coordination is an innovative and worthy concept. However, your Committees note that constitutional provisions appear to prohibit state government from providing preferences to certain private entities that are not extended to similar private entities.

Thus, upon further consideration and discussion, your Committees have amended this measure by:

- (1) Deleting the definitions from the new chapter;
- (2) Removing all references to specific private corporations and entities, and designating a private, nonprofit, 501(c)(3) corporation as the coordinating body;
- (3) Adding language indicating that neither the corporation nor a community council should be construed as a state agency;
- (4) Changing the sunset date for the interdepartmental council from July 1 to June 30, 2001; and
- (5) Making technical, nonsubstantive changes for the purposes of clarity and proper drafting style.

As affirmed by the records of votes of the members of your Committees on Education and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2857, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2857, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.
Ayes, 7. Noes, none. Excused, 2 (Bunda, Ihara).

SCRep. 1931 (Joint) Agriculture, Labor, and Employment and Education on S.B. No. 3110

The purpose of this bill is to exempt student interns from the definition of employment under the Hawaii employment security law, so that employers are exempt from paying unemployment insurance tax to cover student interns.

Your Committees find that student internships offered through school-to-work programs provide on-the-job training opportunities for students to more effectively transition from the school setting to the workplace. Your Committees further find that these programs also offer businesses the opportunity to recruit employees who are eager to learn and be part of the workforce and who will be more adequately trained to meet the future employment needs of our business community.

Your Committees have amended this measure by:

- (1) Including community colleges as qualified public educational institutions offering student internship programs;
- (2) Requiring the department of labor and industrial relations to submit a biennial report to the legislature and the governor on the cost impacts to the State of providing workers' compensation coverage for these student interns; and
- (3) Making technical, nonsubstantive changes for the purposes of clarity and style.

As affirmed by the records of votes of the members of your Committees on Agriculture, Labor, and Employment and Education that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 3110, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 3110, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.
Ayes, 9. Noes, none. Excused, 1 (Anderson).

SCRep. 1932 (Joint) Agriculture, Labor, and Employment and Education on S.B. No. 3153

The purpose of this bill is to clarify that workers' compensation coverage shall be provided by the State for student interns paid directly by private employers.

Your Committees find that vocational student internships are critical components of school-to-work transition programs currently being expanded throughout our public school system. Your Committees further find that student internships are especially important for community college college students enrolled in vocational and technical programs which require on-the-job training.

Your Committees have amended this bill by requiring the department of labor and industrial relations to submit a biennial report to the legislature and the governor on the cost impacts to the State of providing workers' compensation coverage to student interns employed pursuant to this bill.

As affirmed by the records of votes of the members of your Committees on Agriculture, Labor, and Employment and Education that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 3153, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 3153, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.
Ayes, 9. Noes, none. Excused, 1 (Anderson).

SCRep. 1933 (Joint) Agriculture, Labor, and Employment and Education on S.B. No. 3154

The purpose of this bill is to delineate state responsibility for workers' compensation coverage of unremunerated student interns.

Your Committees find that unremunerated internships provide opportunities for students to receive on-the-job training as part of their educational experience for which they can receive credits toward their degree program. Your Committees further find that these student internships also provide our business community with the opportunity to train and prepare our future workforce while meeting the immediate employment needs of the business for which the student is recruited.

Your Committees have amended this measure by:

- (1) Requesting the department of labor and industrial relations to submit a biennial report to the governor and the legislature indicating the cost impacts to the State of providing workers' compensation coverage for unremunerated student interns that are serving as volunteers pursuant to chapter 90, Hawaii Revised Statutes; and
- (2) Making technical, nonsubstantive changes for the purposes of clarity and style.

As affirmed by the records of votes of the members of your Committees on Agriculture, Labor, and Employment and Education that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 3154, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 3154, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.
Ayes, 9. Noes, none. Excused, 1 (Anderson).

SCRep. 1934 Higher Education, Culture, and Arts on S.B. No. 2067

The purpose of this bill is to authorize collection agencies contracted by the university to collect the agency's fees or commissions from the debtor.

Your Committee finds that collection agency costs represent a significant expense to the university. Allowing a collection agency to collect the fees or commissions from the debtor reduces the collection expense to the university, provides an important incentive for the borrower to repay the loan on time, and makes more funds available for new loans.

Your Committee further finds that the federal government allows collection agencies to collect their costs from borrowers under the federal loan programs. Specifically, federal regulations permit the determination of collection costs based on either (1) actual costs incurred for these actions with regard to the individual borrower's loan, or (2) average costs incurred for similar actions taken to collect loans in similar stages of delinquency.

Your Committee received testimony opposing the bill from Credguard Corporation. Credguard believes this bill sets a poor precedent by allowing the university to recoup one hundred percent of its receivables. At a time when everyone is suffering economically, an exception should not be made only for the university.

Your Committee, however, agrees with the University of Hawaii's testimony that it should be allowed to apply the same cost-saving and equity measure afforded under federal student loan programs to its loan programs instead of absorbing delinquent loans and collection costs using state appropriations.

As affirmed by the record of votes of the members of your Committee on Higher Education, Culture, and Arts that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2067, S.D. 1, and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Fernandes Salling, Ikeda, Iwase).

SCRep. 1935 Higher Education, Culture, and Arts on S.B. No. 2338

The purposes of this bill are to:

- (1) Exempt the University of Hawaii libraries special fund from assessments for State central service expenses and administrative fees;
- (2) Retitle section 304-16.5, Hawaii Revised Statutes (HRS), University of Hawaii tuition and fees special fund to the University of Hawaii operating special fund; and
- (3) Clarify that the tuition schedule may include a differential fee for nonresident students, resident undergraduate tuition shall not exceed thirty percent of the estimated average annual cost of education, and that the estimated average annual cost of education shall include, but not be limited to, instructional cost, student services costs, and a pro rata share of institutional and academic support, and fringe benefits.

Your Committee finds that the university should retain flexibility over its ability to set tuition. In setting tuition, the cost of education is not the only factor to be considered. Inclusion of this factor as the only consideration and the inclusion of a specific percentage amount in state statute limits flexibility needed to take into account other considerations such as institutional comparisons and financial planning. Additionally, elimination of the waiver of the nonresidential tuition differential for military would severely impact university programs now serving the military.

Your Committee has amended the bill by:

- (1) Removing the section amending section 304-16.5, HRS, from this bill. This section has been incorporated into S.B. No. 2901, S.D. 1, which deals with the same section.
- (2) Removing the section amending section 304-4, HRS, from the bill. This section has been incorporated into S.B. No. 2900, S.D. 1, which deals with the powers of the board of regents. The requirement that the board submit a status report on its rules and policies regarding tuition waivers to the legislature not later than twenty days prior to the convening of the 1997 regular session and a final report not later than twenty days prior to the convening of the 1998 regular session was also removed from this bill and incorporated into S.B. No. 2900.
- (3) Removing section 304-7.5, HRS. This section has been incorporated into S.B. No. 2901, S.D. 1, which deals with the same subject.
- (4) Making technical amendments for style and clarity.

As affirmed by the record of votes of the members of your Committee on Higher Education, Culture, and Arts that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2338, as amended herein, and recommends 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 the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Fernandes Salling, Ikeda, Iwase).

SCRep. 1936 (Joint) Higher Education, Culture, and Arts and Education on S.B. No. 2372

The purpose of this bill is to allow the University of Hawaii and the department of education to enter into renewable long term service or lease contracts for technical equipment subject to the availability and appropriation of funds. At the end of the term of the contract, amortized equipment may be purchased and disposed of as the university or the department sees fit.

Your Committees received testimony in support of this bill from the university and the department of education.

Your Committees find that the rapid change in technology makes computers and other equipment obsolete in three to five years. Leases afford the department the ability to obtain more equipment with the money budgeted for equipment procurement, and assist in keeping equipment current.

Your Committees also find that the long term leases allow the university more flexibility in meeting its educational, research, and administrative requirements, and ensuring that their computers and other technical equipment are up to date.

As affirmed by the records of votes of the members of your Committees on Higher Education, Culture, and Arts and Education that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2372 and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.
Ayes, 9. Noes, none. Excused, 3 (Fernandes Salling, Ikeda, McCartney).

SCRep. 1937 Higher Education, Culture, and Arts on S.B. No. 2374

The purpose of this bill is to require indirect overhead funds not required by statute to be deposited into the discoveries and inventions revolving fund or the University of Hawaii housing assistance revolving fund, to be deposited into the University of Hawaii systemwide information technology and services special fund.

Your Committee heard testimony from the UH who agreed with the intent of the bill but did not support it. Instead, they recommended passage of S.B. No. 3050 which gives the university a return of one hundred percent of the indirect costs generated for deposit in the research and training revolving fund, which is being recommended for passage by your Committee. The Department of Budget and Finance also opposed this bill.

Your Committee has amended this bill by deleting the contents of the bill and inserting the contents of S.B. No. 2905, which provides instead for a tuition assistance program for up to 1,000 national guard members.

Your Committee finds that there is a compelling state interest in supporting a strong and viable National Guard. The National Guard is the State's militia and has a mission that no other reserve or active military force has, to protect the lives and property of Hawaii's citizens. The Guard assists not only in relief efforts following major natural disasters like Hurricane Iniki, but also during storms, fires, floods, and other destructive natural events. The Guard also serves as back-up to law enforcement organizations during civil disturbances.

Your Committee has received testimony in support of the bill from the University of Hawaii, the State of Hawaii department of defense, and numerous National Guard members.

Your Committee finds that tuition assistance is an effective recruiting and retention tool for maintaining adequate numbers of National Guard members for State public safety needs. Maintaining strength levels also is necessary to earn and sustain federal resources.

Your Committee notes that federal support for the Hawaii National Guard amounted to \$141,271,034 in 1995. The 29th Infantry Brigade must be fully staffed by October 1997, or lose federal units, equipment, and funding.

As affirmed by the record of votes of the members of your Committee on Higher Education, Culture, and Arts that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2374, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2374, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Fernandes Salling, Ikeda, Iwase).

SCRep. 1938 Higher Education, Culture, and Arts on S.B. No. 2375

The purpose of this bill is to create the Pearl City Cultural Center revolving fund.

More specifically, the bill:

- (1) Provides for the deposit of revenues into the fund;
- (2) Allows for expenditures from the fund to operate, repair, maintain, and improve the center;
- (3) Designates the comptroller as the expending agency; and
- (4) Requires the comptroller to submit an annual report to the governor and the legislature on revenues received and expenditures made during the fiscal year.

Your Committee finds that the Pearl City Cultural Center is heavily used by the community and, thus, the costs of operating and maintaining this facility are enormous. Presently, all revenues collected for the use of the center are deposited into a central account of the department of education. The moneys in the account are then allocated by the district to its schools as requested with no assurance that there will be adequate funds to cover all of the schools' needs.

Your Committee also finds that under chapter 39, title 8, Hawaii Administrative Rules (HAR) of the department of education, entitled Use of School Buildings, Facilities, and Grounds, the highest rental fee that can be assessed is \$150 per day with additional charges for custodial services and utilities. However, not all users are required to pay. Public schools, parent-teacher associations, department and other governmental agencies who are the greatest users of the center are exempt from any charges. Thus, the revenues collected are not adequate to cover expenses and must be supplemented by Pearl City High School or the district.

Your Committee received testimony of support from the principal of Pearl City High School, and the department of accounting and general services (DAGS).

Your Committee has amended the bill by designating the department of education as the expending agency since the school principal or a designee controls the use of the facility as stated in chapter 39, HAR. This amendment was recommended by the department of accounting and general services.

Your Committee has further amended the bill by deleting admission fees, which are usually retained by the user, from the sources of revenue that can be deposited into the fund.

As affirmed by the record of votes of the members of your Committee on Higher Education, Culture, and Arts that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2375, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2375, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 2 (Fukunaga, Ikeda).

SCRep. 1939 Higher Education, Culture, and Arts on S.B. No. 2461

The purpose of this bill is to provide the University of Hawaii with complete fiscal autonomy from the executive branch similar to the Judiciary.

The bill repeals provisions requiring the governor's approval for appropriations to the university, repeals the section prohibiting the university from retaining more than five per cent of any carryover appropriations, repeals the section that authorizes the governor to suspend allowances to the university, and creates a new section authorizing the university to develop its own budget and to report directly to the legislature.

Your Committee finds that currently the university's general fund budget allocation is one-third less than it was in 1992 with additional reductions expected. The budget shortage is resulting in reduced faculty members who are expected to do more with less.

Your Committee agrees with university testimony and finds that the exercise by the university board of regents of its constitutional authority to manage the internal affairs of the university requires a greater degree of financing and self governing than exists under current statutes.

Your Committee recognizes that important considerations related to increased autonomy should be addressed before granting the university full fiscal and budgetary autonomy. These considerations include:

- (1) Assuring that higher education public policy is effectively integrated with other public policies under consideration by the governor;
- (2) Establishing a mechanism which allows adjustments for severe economic downturns once appropriations have been made, additional operating costs, and increased autonomy in other functional areas which may impact the budget.

Your Committee received testimony from the department of budget and finance opposing the bill for constitutional and statutory inconsistencies. Creating a fourth branch of government would necessitate statutory as well as constitutional amendments. The total impact of such a change may not be readily apparent without serious review.

Your Committee has changed the effective date of this bill to July 1, 1997, to allow for a more thorough review of other statutory and constitutional changes required to implement UH autonomy. Other nonsubstantive, technical amendments were made for clarity and style.

As affirmed by the record of votes of the members of your Committee on Higher Education, Culture, and Arts that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2461, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2461, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Fernandes Salling, Ikeda, Iwase).

SCRep. 1940 (Majority) Higher Education, Culture, and Arts on S.B. No. 2540

The purpose of this bill is to repeal Good Friday as a state holiday.

Your Committee finds that Good Friday is considered by some to have a religious significance and effect, and serves no secular purpose. Therefore, the State's observance of a religious holiday may be a violation of the establishment clause of the First Amendment.

Your Committee has amended this bill by adding Discoverers' Day as a state holiday to be observed on the second Monday in October, in recognition of not only those who discovered the American continent but also the Polynesian discoverers of the Hawaiian islands.

Your Committee has further amended this bill to provide that if anything in the bill conflicts with the collective bargaining law, the collective bargaining law will prevail. This amendment is made in recognition of the fact that the issue of holidays for state workers is a negotiable item. The effective date has been amended to January 1, 1999, to allow the unions and the state government enough time to consider the holiday trade-off during their negotiations.

Your Committee received testimony in support of the bill from the American Civil Liberties Union and a resident of the city and county of Honolulu. Testifying in opposition was United Public Workers.

As affirmed by the record of votes of the members of your Committee on Higher Education, Culture, and Arts that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2540, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2540, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, 1 (Fernandes Salling). Excused, 2 (Fukunaga, Ikeda).

SCRep. 1941 Higher Education, Culture, and Arts on S.B. No. 2608

The purposes of this bill are to:

- (1) Authorize the board of regents to meet for informal discussions on university related issues without prior notice to the public. This authority is limited by requiring a quorum not be present and no decisions be made on issues discussed; and

- (2) Authorize the board of regents to hold closed door executive meetings on security related issues, evaluations, self-education sessions, or for president selection.

Your Committee finds that clarification of the open meeting requirement of section 92-3, Hawaii Revised Statutes (HRS), is needed to ensure that board members are not precluded from participating in university-related discussions that are not meetings of the board. The strict legal interpretation of the sunshine law by the Department of the Attorney General places unreasonable restraints on the board members. For example, two members of the board, meeting by chance, informally, or at a social gathering, would be in criminal violation of the law if they discussed any university business without following the proper notice provisions.

Your Committee also finds that certain topics of discussion warrant confidentiality in order for the board to act in the best interest of the institution and its constituents. Adding the above mentioned exceptions to the list already contained in section 92-5, HRS, would best serve this purpose.

Your Committee has amended this bill by specifying that the open meeting requirements shall not apply to fact finding and information sessions, social gatherings, chance meetings, or electronic communications where no quorum of board members are present and where no vote or commitment to vote in a certain manner is sought or made.

Your Committee has made a nonsubstantive technical amendment to conform to recommended bill drafting style.

As affirmed by the record of votes of the members of your Committee on Higher Education, Culture, and Arts that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2608, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2608, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Fernandes Salling, Ikeda, McCartney).

SCRep. 1942 Higher Education, Culture, and Arts on S.B. No. 2642

The purpose of this bill is to authorize the board of regents to increase or decrease fees or other nontax revenues up to fifty percent without the approval of the governor. This exception does not change the current law which requires tuition increases or decreases to have a hearing at least one semester prior to the proposed effective date.

Your Committee finds that the benefits of the numerous fee increases or decreases are diminished by the administrative costs and lead time involved in forwarding the charges to the governor for review and approval.

Your Committee has made clarifying amendments to the bill as suggested by the University of Hawaii with the assistance of the attorney general.

Your Committee has also made nonsubstantive technical amendments to this bill.

As affirmed by the record of votes of the members of your Committee on Higher Education, Culture, and Arts that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2642, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2642, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Fukunaga, Ikeda).

SCRep. 1943 Higher Education, Culture, and Arts on S.B. No. 2900

The purpose of this bill is to clarify the authority of the Board of Regents to grant, modify, or suspend tuition waivers, waiver of nonresidential tuition, and fee differentials.

Specifically, the bill:

- (1) Authorizes the board to waive entirely or reduce tuition fees or other fees for students based on a percentage of the full-time enrollment of the previous fall semester taking into account the maximum percentage of allowable tuition and fee waivers for financial aid as well as other university priorities. Provides waivers would be awarded in accordance with board established guidelines; and
- (2) Repeals section 304-17, Hawaii Revised Statutes (HRS), regarding financial aid.

Your Committee finds that Act 161, Session Laws of Hawaii 1995, gave the Board authority over tuition waivers, but did not provide the complementary authority over tuition and other waivers that would impact the revenue from tuition and fees. This bill provides that complementary authority.

Your Committee received testimony in support of this bill from the University of Hawaii. Your Committee also heard from the Office of Veterans Services, the Advisory Board of Veterans Services, and the Oahu Veterans Council regarding their concerns about the combat veteran tuition program previously approved by the legislature in 1994 which will lapse on June 30, 1996.

Your Committee acknowledges the university's commitment to support currently enrolled veterans by providing them tuition waivers until graduation.

Your Committee has amended the bill by:

- (1) Setting section 304-4, HRS, forth in full in the bill and restructuring it to better reflect the amendments made in the bill as received;
- (2) Adding a provision requiring the board of regents to submit a status report on its rules and policies regarding tuition waivers and its progress to the 1997 regular session and a final report to the 1998 regular session; and
- (3) Making technical, nonsubstantive amendments for style and clarity.

As affirmed by the record of votes of the members of your Committee on Higher Education, Culture, and Arts that is attached to this report, your Committee 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 referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Fernandes Salling, Ikeda, Iwase).

SCRep. 1944 Higher Education, Culture, and Arts on S.B. No. 2901

The purpose of this bill is to clarify that charges to students other than tuition and tuition related fees may be deposited into the University of Hawaii tuition and fees special fund.

Your Committee received testimony in support of this bill from the University of Hawaii.

Your Committee finds that under the current law, it is unclear whether it is permissible to deposit other student charges such as change in registration fees, late registration fees, out-of-state application fees, and credit by examination fees, into the fund.

Your Committee has amended this bill by adding section 304-7.5, Hawaii Revised Statutes (HRS), which deals with this subject. The bill now also contains section 304-16.5, HRS, in its entirety, of which, subsections (b) and (c) relating to tuition for resident undergraduates and the apprenticeship program, and the Board of Regent's authority regarding tuition waivers, have been repealed.

Your Committee has also deleted unnecessary statutory material and made nonsubstantive, technical amendments for clarity.

As affirmed by the record of votes of the members of your Committee on Higher Education, Culture, and Arts that is attached to this report, your Committee 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 the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Fernandes Salling, Ikeda, Iwase).

SCRep. 1945 Higher Education, Culture, and Arts on S.B. No. 2902

The purpose of this bill is to repeal the legislature's ability to set the university president's salary effective July 1, 1998. The authority to set the president's salary will remain with the board of regents.

Your Committee heard testimony in favor of this bill from the board of regents.

Your Committee agrees with the bill and notes that a 1994 survey of the Western states, revealed that Washington, Oregon, California, Arizona, Utah, Nevada, Colorado, and New Mexico do not have state statutes that set or limit their university presidents' salaries. Placing this responsibility solely in the board of regents recognizes the need for the board to have the authority and flexibility to compete in the presidential marketplace and to make timely decisions. In addition, the board has had the authority to set the university president's salary since 1991 and has proven itself to act responsibly in such matters.

As affirmed by the record of votes of the members of your Committee on Higher Education, Culture, and Arts that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2902 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Fukunaga, Ikeda).

SCRep. 1946 Higher Education, Culture, and Arts on S.B. No. 3102

The purposes of this bill are to:

- (1) Include historic properties in the priority handling application for permits and water quality certification process for Hawaiian fishponds, and include excavations as part of the permit process; and
- (2) Require that the director's decisions regarding applications be in writing, and provide that failure to comply with the statutory deadlines results in automatic approval.

Your Committee finds that the State must do everything possible to preserve its historic and ancient sites and properties. Lengthy application processes and delays have resulted in irreparable damage and will continue to threaten these sites and properties.

Your Committee has amended the bill to delete the automatic approval of permits in the event the statutory deadlines are not met. The Department of Health has given assurances it is working on streamlining its internal procedures regarding the permit process in all of the department's environmental programs. The department's goal is to maintain quality water control conditions while eliminating excess paperwork.

Your Committee also recognizes that the Department of Health is not the only state agency involved in the water quality certification permit process. The Department of the Attorney General is also encouraged to review these certifications on a more timely basis without sacrificing thorough review.

Your Committee has further amended the bill to include Hawaiian cultural artifacts, sunken airplanes and ships for which a permit and water quality certification may be granted. Your Committee notes that the federal 1987 Abandoned Shipwreck Act requires all states to develop and implement a mechanism for handling submerged cultural resources management and use.

Your Committee received testimony in support of this bill from the Department of Land and Natural Resources, the Historic Hawai'i Foundation, and a nautical archaeologist who has conducted scientific archaeological surveys in various states and foreign countries. The Department of Health also testified with concern about the statutory deadline the bill would have imposed.

Your Committee has also made nonsubstantive technical amendments for clarity.

As affirmed by the record of votes of the members of your Committee on Higher Education, Culture, and Arts that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3102, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3102, S.D. 1, and be referred to the Committee on Ecology and Environmental Protection.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Fukunaga, Ikeda).

SCRep. 1947 Higher Education, Culture, and Arts on S.B. No. 3241

The purpose of this bill is to authorize management of the Diamond Head State Monument by a nonprofit management entity. The department of land and natural resources may contract and select a private, tax exempt, nonprofit entity to manage the monument. The management entity would be responsible for, among other things, planning and implementing an interpretive program, maintenance and upgrade of trails, vegetation, park facilities, and monument security.

Your Committee finds that Diamond Head is a historic site and management is needed to preserve the wilderness character of the Diamond Head State Monument in perpetuity. The Diamond Head citizens advisory committee was formed to advise the department on preservation and management of Diamond Head.

Your Committee also finds that Diamond Head contains a wealth of information on Hawaii's geology, plants, and animals. Very little of this information is presently available to residents and visitors.

Your Committee has amended the bill to:

- (1) Acknowledge the Diamond Head citizens advisory committee's continued involvement in decisions regarding the monument;
- (2) Require the management entity to provide a plan to include, among other things, the design and implementation of an interpretive center;
- (3) Include a provision requiring the management entity and the department to work with appropriate public employee unions regarding displaced jobs and organizational or management decisions that affect employee rights.

As affirmed by the record of votes of the members of your Committee on Higher Education, Culture, and Arts that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3241, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3241, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Fernandes Salling, Ikeda, McCartney).

SCRep. 1948 Higher Education, Culture, and Arts on S.B. No. 2906

The purpose of this bill is to authorize the board of regents to expend public funds directly or through the University of Hawaii Foundation for fundraising or property acquiring purposes. The board may also authorize any money or property received from other sources besides the legislature or federal government be held and expended through the Foundation.

Your Committee finds that because of recent budget cuts, the university must raise additional nontax funds to meet its operational requirements. The university will be more dependent on the receipt of funds and other property from non-governmental sources to enable it to provide educational programs and to maintain its research and community service efforts. In the past, the university has relied primarily on the efforts of the University of Hawaii Foundation, a nonprofit corporation, to solicit private contributions, gifts and bequests of money and property to support university programs.

Your Committee believes that this bill enables the university to increase and improve its fundraising efforts by permitting the expenditure of public funds for this purpose. In addition, the bill would afford greater flexibility to the university by enabling it to work in partnership with the University of Hawaii Foundation for fundraising purposes.

Your Committee notes that the Board of Regents through a cooperative agreement, has a contractual right to audit foundation activities which will enable the board to monitor the use of such funds and property to ensure that they are properly utilized.

Your Committee received testimony in support of this bill from the University of Hawaii.

As affirmed by the record of votes of the members of your Committee on Higher Education, Culture, and Arts that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2906 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Fukunaga, Ikeda).

SCRep. 1949 Higher Education, Culture, and Arts on S.B. No. 3050

The purpose of this bill is to amend the statute regarding the University of Hawaii research and training revolving fund to provide for one hundred percent of the total amount of indirect overhead generated by the university through its research and training programs to be deposited into the fund. The bill also:

- (1) Repeals the requirement that \$2,500,000 derived from indirect overhead sources from university-held federal and other research and training contracts and grants be deposited into the research and training fund, and the requirement that the fund balance not exceed \$2,500,000 at any time;
- (2) Authorizes the board of regents to expend eighty-four percent of the revenues in the research and training revolving fund to fund research and training programs, and to establish a separate account within the fund without the \$2,500,000 limit to provide advance funding for federally financed research and training projects; and
- (3) Mandates that revenues contained in the research and training revolving fund cannot be used as a basis for reducing any University current or future budget requests.

Your Committee finds that currently fifty percent is deposited into the research and training revolving fund, four percent to the discoveries and inventions revolving fund, twelve percent to the UH housing assistance revolving fund, and the remaining thirty-four percent to the State general fund. Thus, the total return from reimbursements on sums expended from the research and training fund has been at sixty-six percent of total indirect cost recovery. The fund provides flexibility to respond to external opportunities, to support professional faculty activities, and to develop research and training programs.

Your Committee also finds that with continuing budget cuts, additional revenues are needed to support research programs including:

- (1) Federal requirements for equipment-matching funds;
- (2) Start-up funds for research programs;
- (3) Temporary funding to bridge gaps in grant funds; and
- (4) Providing total or partial funding for a telecommunications link for research and other campus components.

Your Committee supports the use of University-generated overhead funds to provide a high-speed internet connection as proposed in S.B. No. 2374. However, your Committee prefers not to specifically commit the University-generated funds to this purpose by statute. Your Committee believes that the University's firm commitment as stated at the hearing, to provide a forty-five million bit-per-second link for use by the University and the State of Hawaii is sufficient assurance as to the intended use of these funds.

As affirmed by the record of votes of the members of your Committee on Higher Education, Culture, and Arts that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3050 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Fukunaga, Ikeda).

SCRep. 1950 Economic Development on S.B. No. 662

The purpose of this bill is to encourage the creation of renaissance zones in the State and provide temporary tax relief to businesses and residents within the zones.

Your Committee finds it worthwhile to take proactive, innovative steps to spur economic growth, especially in impoverished areas of the State.

Your Committee notes that the Michigan legislature, in what appears to be one of the most innovative steps yet to be taken by any state, is considering legislation that would abolish all state and local income and property taxes in eight areas singled out for economic development. Under the provisions of this bold measure, the State of Michigan will attempt to turn these eight selected areas into "renaissance zones", where residents and businesses, for up to fifteen years, would pay only federal taxes, local sales taxes, and taxes tied to bonds already issued.

Your Committee in considering the similar Michigan legislation has amended this bill by:

- (1) Deleting the designations between rural and urban districts and making several conforming changes;
- (2) Decreasing the number of renaissance zones from eight to three, and providing that two of the three zones shall be exclusively for ocean thermal energy conversion and water transmission related businesses and projects, and that the third zone may be designated without respect to any specific business types or projects; and
- (3) Deleting the exemption from state general excise taxes.

Your Committee has also made several technical, nonsubstantive changes for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Economic Development that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 662, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 662, S.D. 2, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, none.

SCRep. 1951 Judiciary on S.B. No. 675

The purpose of this bill is to clarify when and how requests for investigation of election irregularities will be handled by the Chief Election Officer and county clerks.

Your Committee acknowledges that the electorate will respect our electoral process only upon the prompt investigation and response to complaints about election irregularities. This bill seeks to accomplish these goals by specifying a speedy response by the Chief Election Officer, requiring a manual audit in precincts with an overage or underage vote count and making this information a public record.

Testimony from the Chief Election Officer suggested that investigation and lists of precincts with overage or underage clearly refer to contests for cause for a primary or special primary election under section 11-173.5, Hawaii Revised Statutes, and contests for cause for a general, special general, or special election, under section 11-174.5 inasmuch as contests for cause are differentiated by two separate sections of the election law.

Your Committee has amended this bill by making it clear that all elections are included in the language referring to a prompt investigation by the Chief Election Officer and the filing of the list of precincts with overage or underage counts. Furthermore in section 2 of this bill, your Committee included an amendment which explains that a manual audit shall be conducted where there is a plus or minus three overage or underage and where the result may be affected by the overage or underage. This tolerance level would prevent the expenditure of excessive hours of personnel time and money to manually audit every occasion where overage or underage of any kind occurs.

Your Committee also incorporated amendments suggested by the Chief Election Officer by specifying the kinds of evidence upon which the certification of results of an election would be based, including audits of record and pollbooks, absentee ballot reconciliation reports, logs, tally sheets, and the like. A new section has been added to this bill to amend section 11-172, relating to contests for cause, generally. Language has been added to this section proscribing the intention to promote frivolous complaints or to deny access to elections materials when reasonably needed to prove error or fraud which may cause a difference in election results.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 675, S.D. 1, as amended herein and recommends that it be placed on the calendar for Third Reading in the form attached hereto as S.B. No. 675, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (McCartney, Anderson).

SCRep. 1952 Housing on S.B. No. 2068

The purpose of this short form bill is to effectuate its title relating to housing.

Your Committee finds that it is necessary to authorize the Housing Finance and Development Corporation (HFDC) to issue revenue bonds for up to \$125,000,000 to finance the development of infrastructure on land owned by HFDC. Accordingly, your Committee has amended this bill to insert language that provides such authority.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the action to report out S.B. No. 2068, as amended herein, and recommends that it pass

Second Reading in the form attached hereto as S.B. No. 2068, S.D. 1, and be recommitted to the Committee on Housing for further consideration.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Holt).

SCRep. 1953 Judiciary on S.B. No. 686

The purpose of this short form bill is to amend the law relating to the Attorney General.

After holding hearings during the interim between the 1995 and 1996 Regular Sessions, and following discussions upon conducting a hearing on Senate Bill No. 2596, your Committee has amended this bill by deleting its contents and adding language proposing an amendment to article V, section 6 of the Hawaii constitution to provide for the appointment of the Attorney General by the Governor from a list of nominees presented to the Governor by the Judicial Selection Commission.

Your Committee agrees with the intent of this bill, as so amended, and recommends that the bill be recommitted for the purpose of holding a public hearing.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the action to report out S.B. No. 686, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 686, S.D. 1, and be recommitted to the Committee on Judiciary for further consideration.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Tam).

SCRep. 1954 Judiciary on S.B. No. 678

The purpose of this short form bill is to amend the law relating to public safety.

Your Committee has inserted the contents of this bill as amended, the purpose of which is to establish and authorize the State to enter into an Interstate Corrections Compact with other states, similar to the Western Interstate Corrections Compact authorized under chapter 355, Hawaii Revised Statutes.

Your Committee finds that this bill will permit the State to consider contracting for the transfer of prisoners with a wider number of states than permitted under the Western Interstate Corrections Compact, to address the continuing concerns over Hawaii's inmate population. Your Committee further finds that entrance into the compact is subject only to enactment of legislation and will entail no payment of dues or other fiscal impact.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the action to report out S.B. No. 678, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 678, S.D. 1, and be recommitted to the Committee on Judiciary for further consideration.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Tam).

SCRep. 1955 Planning, Land and Water Use Management on S.B. No. 2144

The purpose of this bill is to preserve and protect the integrity and appearance of cultural landscapes and sites.

Specifically, the bill broadens the purpose of establishing a conservation easement in section 198-1, Hawaii Revised Statutes, to include preserving and protecting cultural landscapes and sites.

Your Committee finds that establishing conservation easements is a creative way of providing incentives to landowners who choose to help protect the environment, or, as provided in this bill, help preserve cultural resources.

As affirmed by the record of votes of the members of your Committee on Planning, Land and Water Use Management that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2144 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Anderson).

SCRep. 1956 (Joint) Planning, Land and Water Use Management and Agriculture, Labor, and Employment on S.B. No. 2061

The purpose of this bill is to review the State's Agricultural Lease Program.

The bill requires the Department of Land and Natural Resources to conduct a comprehensive review of its Agricultural Lease Program by consulting with agricultural lessees throughout the State. Upon completion of its consultation, the Department of Land and Natural Resources must submit its findings and recommendations as well as any draft legislation to implement its recommendations to the Legislature prior to the 1997 Regular Session.

Your Committees find that the rates charged by the Department of Land and Natural Resources for agricultural leases under Chapter 171, Hawaii Revised Statutes (HRS), have increased dramatically over the past several years. Without a clearly established set of rules to control the cost of lease rents during the re-opening of leases, farmers are concerned that their lease rents will continue to escalate. Farmers are also concerned about issues relating to the auction process and the expiration of leases provided for under Chapter 171, HRS.

Due to these and other concerns, your Committees believe that a comprehensive review of the State's Agricultural Lease Program should be performed.

Your Committees have amended the bill by inserting language that:

- (1) Requires the Department of Land and Natural Resources to work in cooperation with the Department of Agriculture in conducting this review; and
- (2) Requires the review to include a determination as to whether the administration of the State's Agricultural Lease Program should be transferred from the Department of Land and Natural Resources to the Department of Agriculture.

As affirmed by the records of votes of the members of your Committees on Planning, Land and Water Use Management and Agriculture, Labor, and Employment that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2061, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2061, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairmen on behalf of the Committees.

Ayes, 8. Noes, none. Excused, 3 (Holt, Matsunaga, Solomon).

SCRep. 1957 (Joint/Majority) Planning, Land and Water Use Management and Housing on S.B. No. 2003

The purpose of this bill is to establish a state preemption law for family child care.

Your Committees find that the provision of child care homes in normal residential surroundings provide children with a home environment conducive to their healthy and safe development.

The care of our children and the provision of safe, healthy and loving child care is a matter of statewide concern. It is a reality today that for many families, both parents must work. Thus, the need for child care is critical, especially for infants who are often excluded from facilities such as day-care centers and pre-schools because they are too young. As a result, child care in residential settings are often the sole alternative for working parents. These homes have long provided a safe and loving environment which an infant needs, and which working parents seek.

Your Committees note that concerns were raised by individuals representing various associations of apartment owners regarding liability issues relating to common elements which are owned or controlled by the association. Specifically, concerns were raised over tort liability and with the Americans with Disabilities Act as they relate to the establishment of family child care homes in condominium projects. Your Committees agree that these are serious and legitimate issues which must be addressed. Your Committees also note that these issues may also apply to limited-equity housing cooperative and cooperative housing corporations which are similar to condominium property regimes.

In light of the above, your Committees have amended this bill to exempt limited-equity housing cooperatives, cooperative housing corporations, and condominium property regimes from sections 5 and 6 of this bill, and have further amended this bill as follows:

- (1) Limited-equity housing cooperatives, cooperative housing corporations, and condominium property regimes shall be allowed to make an election as to whether family child care homes should be allowed in the limited-equity housing cooperative, cooperative housing corporation, or condominium property regime, as applicable.
- (2) Where a limited-equity housing cooperative, cooperative housing corporation, or condominium property regime elects to allow family child care homes, the family child care provider shall:
 - (A) Be required to carry liability insurance naming the limited-equity housing cooperative, cooperative housing corporation, or association of apartment owners as an additional insured;
 - (B) Execute a hold harmless agreement to indemnify the limited-equity housing cooperative, cooperative housing corporation, or association of apartment owners for any claims relating to the family child care home, or arising out of the use of the family child care provider's residence as a family child care home; and
 - (C) Reimburse the limited-equity housing cooperative, cooperative housing corporation, or association of apartment owners for any additional expenses incurred by the limited-equity housing cooperative, cooperative housing corporation, or association of apartment owners, as applicable, resulting from the operation of the family child care home.
- (3) Limited-equity housing cooperatives, cooperative housing corporations, and condominium property regimes are allowed to restrict or prohibit family child care homes through recorded restrictions or prohibitions.
- (4) The Department of Human Services, in conjunction with the Department of the Attorney General and the Commission on Persons with Disabilities shall report to the 1997 Legislature regarding issues of tort liability and the Americans with Disabilities Act as they may relate to the establishment of family child care homes in limited-equity housing cooperatives, cooperative housing corporations, and condominium property regimes, and whether

the general provisions of this bill should be extended to limited-equity housing cooperatives, cooperative housing corporations, and condominium property regimes.

Moreover, given the nature and residency in elderly housing projects, your Committees have also exempted such projects from sections 5 and 6 of this bill.

Further, your Committees have amended this bill to clarify the definition of a "family child care home".

Your Committees have made technical, nonsubstantive amendments for purposes of consistency and style.

As affirmed by the records of votes of the members of your Committees on Planning, Land and Water Use Management and Housing that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2003, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2003, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairmen on behalf of the Committees.
Ayes, 9. Noes, 1 (Liu). Excused, 1 (Holt).

SCRep. 1958 Communication and Public Utilities on S.B. No. 2754

The purpose of this bill is to require utilities to notify their customers of rate case public hearings by U.S. mail, at their last known billing address, not less than thirty days before the public hearing.

Your Committee finds that under current law, the only notification requirement for rate case public hearings is advertisement in a newspaper of general circulation in the State. The public utilities commission is required to publish three notices in the newspaper once in each of three weeks prior to the hearing and the utility is required to publish an additional notice not less than one week prior to the hearing.

Your Committee finds that as a result of the lack of direct individual notice to ratepayers, many ratepayers miss out on the opportunity to attend and present testimony at important rate case hearings and do not find out about rate increases until the increased rates become effective and show up on their bills.

Your Committee believes that this bill will encourage ratepayer participation in utility rate case public hearings and help to ensure that the regulatory process is open and accessible to the general public.

Your Committee has amended this measure by authorizing the public utilities commission to broadcast rate case hearings through public access community broadcasting media. Your Committee has also made several technical, nonsubstantive changes for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Communications and Public Utilities that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2754, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2754, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Matsuura, Liu).

SCRep. 1959 Education on S.B. No. 1295

The purpose of this bill is to repeal the school district advisory councils.

Your Committee finds that a school district advisory council (SDAC) was established in each school district in the State to, among other things, inform the board of education on educational matters of interest to the school district, and act as an advisory body to the district superintendent of the school district. The concept behind the establishment of SDACs was to have more grass-roots participation in important educational matters affecting communities around the State.

Your Committee further finds that with the advent of school/community-based management (SCBM), more opportunities are available for the general public to have access to and provide input into public education. In addition, the board of education can directly solicit input on grassroots concerns from the SCBM councils. Thus, your Committee believes that while the SDACs at one time served a purpose, within the evolving framework of SCBM they are no longer needed.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1295 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, none.

SCRep. 1960 Transportation and Government Affairs on S.B. No. 2970

This bill is a Judiciary housekeeping bill the purpose of which is to distinguish court imposed fines which go to the general fund from the "fines" imposed by sections 286G-2 and 286G-3, Hawaii Revised Statutes, which are deposited into the Driver Education and Training Fund and are used to defray the costs of driver education and training.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2970 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Solomon, Anderson).

SCRep. 1961 Transportation and Government Affairs on S.B. No. 3204

The purpose of this bill is to prohibit the implementation of plans, including the "Oahu Commercial Harbors 2020 Master Plan" and the "Honolulu Waterfront Master Plan", which affect Honolulu Harbor without first obtaining legislative approval.

The Department of Business, Economic Development and Tourism testified in opposition to the bill on the basis that Legislature has oversight in the budgetary process. The Department of Transportation had no objection to the bill. The Chamber of Commerce of Hawaii testified in favor of the bill and stated that the overwhelming need to safeguard lands critical to the State's future justified the creation of an additional layer of approval.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3204 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Solomon, Anderson).

SCRep. 1962 Housing on S.B. No. 2094

The purpose of this bill is to repeal all exceptions to the condominium property regime law which overrides requirements in condominium associations' declaration, bylaws, or other documents and to repeal the implementing administrative rule.

Presently, section 514A-83.6, Hawaii Revised Statutes (HRS), requires the board of each association of apartment owners to, among other things, adopt an annual operating budget, perform a reserve study, and establish a replacement reserves fund according to a statutorily provided formula. Statutory requirements relating to the preparation of the budget, calculation of reserve requirements, assessment and funding of reserves expressly override any inconsistent requirements in the association of apartment owners' declaration, bylaws, or any other association documents, except in regards to provisions relating to the following:

- (1) Repair and maintenance of property;
- (2) Requirements to collect more than fifty per cent of reserve requirements; or
- (3) Provisions relating to upgrading the common elements, such as additions, improvements, and alterations to the common elements.

Since the statutory requirements are minimum standards, the foregoing exceptions allow associations to set higher standards. This bill repeals these exceptions to the statutory override and the associated implementing administrative rule. Repeal of the administrative rule does not preclude the adoption of rules to implement the amended statute.

Testimony submitted by the Hawaii Real Estate Commission expressed general reservations concerning the repeal of these exceptions; and expressed particular concern at the repeal of paragraph (2) 514A-83.6(g)(2), HRS, which authorizes the collection of more than fifty per cent of reserve requirements. The Commission cautioned that this may have adverse consequences with respect to a condominium association's ability to secure adequate reserves.

The Hawaii State Bar Association and the Community Associations Institute submitted testimony in support of the intent of this measure, but also expressed similar concern over the repeal of paragraph (2).

Testimony revealed that the budget and reserves law was adopted in 1991 because many associations were not setting aside reserve funds or had inadequate reserve funds to pay for future repairs and replacements. Over the years, many condominium owners complained of large special assessments for major repairs and replacements because the association decided to have no reserves or accumulated inadequate reserves. Reports indicate that associations did not have reserves or had inadequate reserves because boards of directors did not want to make the unpopular decision of raising maintenance fees due to intimidation by a few aggressive owners.

Your Committee fully supports the intent of the budget and reserves law to set minimum standards for reserves and maintenance and repair, and finds that the enactment of this measure will not diminish these standards.

Your Committee is cognizant that there have been numerous complaints regarding "override" provisions in section 514A-83.6(g)(1) and (3). However, as testimonies indicated, repealing paragraph (2) of section 514A-83.6(g) would pose major problems for condominiums. Your Committee, therefore, has amended the bill to retain the language in paragraph (2) which allows the condominiums to collect more than fifty per cent of reserve requirements.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2094, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2094, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Chumbley, Holt).

SCRep. 1963 Housing on S.B. No. 2826

The purpose of this bill is to make discretionary, where feasible, the present mandatory requirement imposed on the Housing Finance and Development Corporation (HFDC) to offer at least ten percent of the total number of houselots in single-family projects of fifty or more units to owner-builders or to nonprofit organizations assisting owner-builders in the construction of units thereon.

Current law provides lower income families with an opportunity for homeownership by owner-builder or self-help housing efforts. Families typically provide twenty to thirty hours of construction work per week for about a year to build their own homes.

Favorable testimony submitted by the HFDC revealed that the HFDC has experienced mixed success in meeting the ten percent requirement. The self-help housing concept is a good one, but only in certain types of projects. Other projects do not lend themselves to self-help housing. For example, developers of two villages in the Villages of Kapolei were required to set aside ten percent of the single-family lots for owner-builders. However, due to the large size of the projects, the developers were able to produce units faster and more economically than could be achieved by owner-builders due to economies of scale.

Application of the owner-builder requirement to the Villages of Kapolei was not feasible due to:

- (1) The relatively high density averaging nine to ten units per acre, compared to typical single family subdivisions (such as Waimanalo or Waiehu) with densities averaging six units per acre;
- (2) Units within these villages are clustered on 3,500 square foot lots instead of the typical 5,000 square foot lots;
- (3) The owner-builder lots are located within the developer built units and, therefore, must meet strict design guidelines to preserve the integrity and value of the specific village itself; and
- (4) The prospect of having neighboring construction on going every weekend for about a year also presented problems in areas where units have been occupied.

Your Committee has been informed by HFDC that where owner builder units are not feasible, the lots remain vacant and unused.

Your Committee agrees with the purpose of this bill, however, there are concerns over the ambiguity of using "feasible" as the standard to determine when the ten percent requirement would be waived. Therefore, your Committee has amended the bill to provide that if after a reasonable time there are no owner-builders or nonprofit organizations, the corporation is not required to set aside ten percent of the units as provided in the law.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of 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 the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Holt).

SCRep. 1964 Transportation and Government Affairs on S.B. No. 3160

The purpose of this bill is to allow tour and cruise vessels with class nine liquor licenses to serve liquor to passengers prior to departure or during debarking, not just when the vessel is in operation, if such service is approved by the county issuing the license.

The County of Maui, supported the intent of the bill. The Department of Business, Economic Development and Tourism, and Paradise Cruise, Ltd. submitted testimony in support of the bill noting that this could be beneficial to tourism. The City and County of Honolulu also testified in support of the bill noting that the bill gave each county latitude to approve or disapprove such liquor service.

Your Committee has made a technical, nonsubstantive amendment for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3160, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3160, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Solomon, Anderson).

SCRep. 1965 (Joint) Hawaiian Affairs and Economic Development on S.B. No. 3151

The purpose of this bill is to convene a delegation of members of the State administration to meet with Hawaiian leaders to discuss the potential for economic development activities in the Asian-Pacific region in the areas of banking and other financial services.

This bill directs the Governor to convene the delegation, consisting of representatives from specified departments, who would work with the leadership of Hawaiian sovereignty groups to ascertain if they are interested in economic development activities in the Asian-Pacific region. If such interest exists, the necessary authorization from the United States Congress for recognition of a sovereign native Hawaiian entity will be sought and for approval of the types of economic development activities proposed for a Hawaiian trading region.

According to testimony of Senator Robert Bunda, testifying individually, the intent of this bill is to pursue a win-win opportunity for the State and the Hawaiian sovereignty movement. This opportunity would: broaden Hawaii's role in the global market place, particularly the Asian-Pacific market; provide a vehicle for the Hawaiian sovereignty groups to potentially resolve their land claims; and serve as a foundation for creating an attractive economic development area to benefit the nation of Hawaii, the Hawaiian people, and the State.

Your Committees believe that economic development and Hawaiian Sovereignty can find a mutually beneficial place in Hawaii's future and that this bill would provide the first crucial step in that direction. These activities would be similar to those adopted by the Cayman Islands and Bermuda, which have experienced phenomenal economic growth due to their flexible offshore financial services environments.

Your Committees believe that a trading region established by an independent Hawaiian nation and backed by the United States government, with attractive corporate and taxation laws would be able to attract those companies seeking an attractive business environment while maintaining the continuing security and protection of the laws and legal redress of the United States.

Your Committees have amended this bill by:

- (1) Clarifying that the delegation should meet with leaders of the Hawaiian sovereignty movement;
- (2) Adding to the list of delegation members the representatives of the Departments of Land and Natural Resources and Hawaiian Home Lands, and the Office of Hawaiian Affairs;
- (3) Requiring the governor to convene the delegation within ninety days of the effective date of this Act; and
- (4) Making technical, nonsubstantive amendments.

As affirmed by the records of votes of the members of your Committees on Hawaiian Affairs and Economic Development that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 3151, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 3151, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairmen on behalf of the Committees.
Ayes, 7. Noes, none. Excused, 2 (Grauly, Ige).

SCRep. 1966 Education on S.B. No. 2446

The purpose of this bill is to recodify the education statutes to create a state education policy framework that is less compliance and regulatory oriented and more supportive of schools becoming student focused. Specifically, this measure reorganizes the education statutes to group together policies affecting students, school personnel, system structure, financial structure, and facilities.

Your Committee finds that current national trends in education policy delineate shifting from tolerating mediocrity to expecting education success for all and shifting from a bureaucratic organizational structure to a partnership model. Your Committee further finds that recent state education reform initiatives such as school/community-based management and student-centered schools, follow this trend in national education policy. Your Committee believes that this recodification of the education statutes provides a new framework for the development of future education policy that will reflect supporting improved student learning rather than maintaining the existing education system structure.

Your Committee further notes that through the diligence of the education statutory revision interim study group established pursuant to Act 168, Session Laws of Hawaii 1995, this measure has been reviewed by various stakeholders in the public education system including legislators, the board of education, the department of education, school staff, students, parents, the community, and educational consultants. Based upon this review by and with the concurrence of the interim study group, your Committee has amended this bill as follows:

- (1) § -301 (statewide performance standards) - deleted obsolete subsection (b) which required a report by the performance standards commission to the legislature prior to the 1995 regular session;
- (2) § -505 (school cafeteria division) - deleted subsection (d) providing authority for governor to create a division with the department of education, as the department already possesses such authority;
- (3) § -520 (profits to pupils) - deleted provision excepting this section from application to other schools, as the State no longer regulates privately owned schools of lower education;
- (4) § -521 (disposition of funds) - deleted unconstitutional provision which continually appropriates funds, as funds can only be appropriated for a specified fiscal year;
- (5) § -545 (findings and purpose regarding gifted and talented children) - deleted this provision as redundant language; findings and purpose exist in perpetuity through the session law creating the specific program;

- (6) § -601 (Hawaii teacher standards board (HTSB)) - added a repeal provision because the recodification bill would repeal the repeal of the HTSB;
- (7) § -721 (salary of assistant superintendents, et al.) - deleted obsolete language regarding pay increases from January 1, 1990, to July 1, 1991;
- (8) § -730 (termination of employment of teachers and educational officers) - deleted obsolete language, as termination procedures are negotiated through collective bargaining;
- (9) § -738 (cafeteria managers as teachers) - deleted obsolete language, as normal school graduates are no longer present within the system;
- (10) § -739 (cafeteria workers) - deleted obsolete language from 1967 about conversion of cafeteria workers from full-time to part-time workers;
- (11) § -740 (compensation of cafeteria workers) - deleted unconstitutional provision which continually appropriates funds, as funds can only be appropriated for a specified fiscal year;
- (12) § -901 (findings and purpose regarding HTSB) - deleted this provision as redundant language; findings and purpose exist in perpetuity through the session law creating the specific program;
- (13) § -910 (repeal of HTSB) - added a repeal provision because the recodification bill would repeal the repeal of the HTSB;
- (14) § -1101 (findings and declaration of necessity regarding equal access and student bias) - deleted this provision as redundant language; findings and purpose exist in perpetuity through the session law creating the specific program;
- (15) § -1105 (findings and purpose regarding assessment and accountability) - deleted this provision as redundant language; findings and purpose exist in perpetuity through the session law creating the specific program;
- (16) § -1223 (findings and purpose regarding student-centered schools) - deleted this provision as redundant language; findings and purpose exist in perpetuity through the session law creating the specific program;
- (17) § -1225 (findings and purpose regarding school/community-based management) - deleted this provision as redundant language; findings and purpose exist in perpetuity through the session law creating the specific program;
- (18) § -1232 (public schools special fees and charges) - deleted obsolete language regarding bringing the education system into compliance with the English standard system;
- (19) § -1607 (findings and purpose regarding classroom cleaning) - deleted this provision as redundant language; findings and purpose exist in perpetuity through the session law creating the specific program;
- (20) § -1608 (classroom cleaning project) - deleted provision requesting report on the program to the legislature prior to the 1995 regular session;
- (21) Sections 6 and 7 of the bill as received were deleted as containing incorrect amendments;
- (22) Amended definition of educational organization in income tax code to reflect definition of private schools under federal IRS code as the State no longer regulates privately owned schools of lower education;
- (23) Amended definition of educational institution under physical therapy act to reflect that State no longer regulates privately owned schools of lower education;
- (24) Deleted Section 22 of the bill as received, concerning repeal and reenactment provisions, and replaced with a new Section 20 to amend the specific session laws, and repeal provisions have been inserted within the applicable sections of the recodified statutes;
- (25) Deleted Section 23 of the bill as received, and replaced with a new Section 21 to direct the revisor to allow other specific acts amending various sections of the education title to supersede language within this bill, provided that the numbering, structure, and organization of this bill controls; and
- (26) Made technical, nonsubstantive changes throughout the bill for the purposes of clarity and proper drafting style.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2446, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2446, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Matsunaga).

The purpose of this bill is to exempt state and county firefighters who drive firetrucks from commercial driver licensing requirements provided they are trained by either the state or county and the vehicles are equipped with audible and visual signals and are not subject to normal traffic regulations.

Favorable testimony in support of the bill was submitted by the Hawaii State Fire Fighters Association, the Honolulu Fire Department, the Hawaii Fire Chiefs Association, and Anthony J. Lopez, Fire Chief of the City and County of Honolulu. The testimony was generally to the effect that commercial licensing was unnecessary as fire departments are not commercial enterprises, and licensing was an unnecessary financial drain. Testimony also noted that the bill was too narrowly worded and would not allow the drivers to drive vehicles when there was no emergency such as for fueling and servicing.

Your Committee amended the bill to provide that state and county firefighters who drive state and county firetrucks would be exempt in the same way as federal firefighters are, and to delete the requirement that the vehicles have audible and visual signals and not be subject to normal traffic regulations.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2545, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2545, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Solomon, Anderson).

SCRep. 1968 Judiciary on S.B. No. 2052

The purpose of the bill is to prohibit a liquor licensee from not only selling, but also serving or allowing the consumption or possession of liquor to persons such as minors and those under the influence.

Current law only prohibits a liquor licensee from selling liquor to these persons. However, there is also a need to clarify that the law should also prohibit consumption or possession of liquor.

Your Committee received testimony in support of the bill from the city and county of Honolulu department of finance, Legislative Information Services of Hawaii, Mothers Against Drunk Driving and Aiea United Methodist Church.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2052 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (McCartney, Tam, Anderson).

SCRep. 1969 Judiciary on S.B. No. 2465

The purpose of the bill is to require a person to complete a pistol and revolver safety or training course or class prior to receiving a permit to acquire a handgun.

Your Committee finds that the public in general is at risk and household members are especially at risk, when someone within the household owns a pistol or revolver without having received necessary training and education.

This bill requires a person to complete one of several approved safety or training courses in the safe use, handling, storage of pistols and revolvers, and general firearms safety in the home, prior receiving a permit to purchase a handgun.

Your Committee received testimony in support of the bill from the Honolulu police department, the state department of health, the state board of land and natural resources, and the Hawaii Citizen's Rights Committee.

Your Committee amended the bill by requiring two hours of firing range training instead of three hours, and by requiring four hours of classroom instruction instead of three hours, as suggested by the Hawaii Rifle Association. Your Committee concurs that two hours of live fire training as is done for military qualification purposes is sufficient when coupled with four hours of classroom instruction.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2465, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2465, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (McCartney, Tam, Anderson).

SCRep. 1970 Judiciary on S.B. No. 2659

The purpose of the bill is to increase criminal penalties when a person poaches upon State land. The bill also provides for civil, administrative penalties.

Your Committee finds that poaching is a serious problem particularly on the neighbor islands. Your Committee further finds that the current criminal penalties are ineffective in deterring poaching.

Your Committee received testimony in support of the bill from the Nature Conservancy of Hawaii, the department of land and natural resources, Koolau Agricultural Co., Ltd., and the Hawaii Citizens' Rights Committee.

Your Committee amended the bill by providing for civil penalties for poaching on State land. The amendment permits the State to assess administrative fines and costs against these individuals.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2659, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2659, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (McCartney, Tam, Anderson).

SCRep. 1971 Judiciary on S.B. No. 2847

The purpose of the bill is to require persons who use explosives to obtain a certificate of fitness. The bill also removes responsibility for explosives regulation from the department of labor and industrial relations except for the issuance of certificates of fitness. The bill also requires persons who wish to use explosives to obtain the certificate of fitness from the department.

Your Committee finds that the current system of regulating explosives is duplicative, where currently, several governmental agencies regulate the area of explosives. The bill clarifies that the department of labor and industrial relations' responsibility is to issue certificates of fitness.

Your Committee received testimony in support of the bill from the department of labor and industrial relations, the department of transportation, and the Hawaii Citizen's Rights Committee.

The Hawaii Rifle Association and the Hawaii Citizen's Rights Committee, and several individuals testified that individuals possessing less than five pounds of black powder should not be required to obtain a certificate of fitness as this is not required under federal regulations.

Your Committee amended the bill by permitting individuals to possess up to five pounds of commercially manufactured black powder without obtaining a certificate of fitness, if the black powder is used for target shooting and hunting with antique or replica firearms.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2847, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2847, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (McCartney, Tam, Anderson).

SCRep. 1972 Judiciary on S.B. No. 2885

The purpose of the bill is to clarify that victims, or their representatives may present written statements or oral comments at minimum prison term hearings before the parole board.

Your Committee finds that the current practice of the parole board is to afford victims, or their representatives, the opportunity to comment at minimum term hearings; however, current law does not expressly provide for this opportunity.

Your Committee received testimony in support of the bill from the Hawaii paroling authority, the Honolulu, Hawaii, and Kauai prosecuting attorneys, their victim witness programs, and the criminal injuries compensation commission.

Your Committee amended the bill by making technical, nonsubstantive amendments for the purpose of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2885, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2885, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (McCartney, Tam, Anderson).

SCRep. 1973 Judiciary on S.B. No. 2929

The purpose of the bill is to:

- (1) impose criminal penalties for the failure to secure a license under the general excise tax and the tobacco tax;
- (2) provide for misdemeanor penalties for the wilful failure to secure the general excise tax and tobacco license; and
- (2) add a definition of "person" to sections 231-34, 231-35, and 231-36, Hawaii Revised Statutes, to include corporate officers and employees and any individuals who are under a duty to perform the required acts.

Your Committee believes that the intent of the bill is to enhance the enforcement of criminal penalties and to provide for the fair and equitable application of criminal tax laws to corporations and other entities as well as to individuals.

Upon further consideration, your Committee amended the definition of "person" as suggested by the Tax Director in order to clarify that any individual who is under a duty and is principally responsible to perform the act is subject to criminal liability.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2929, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2929, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (McCartney, Chumbley, Tam).

SCRep. 1974 Judiciary on S.B. No. 2930

The purpose of the bill is to impose civil penalties on compensated tax return preparers as follows:

- (1) \$250 penalty for tax return preparers who take frivolous or unmeritorious tax return positions; and
- (2) \$1,000 penalty where the tax preparer wilfully attempts to understate tax liability or intentionally or recklessly disregards the tax laws.

The bill further provides for exceptions to the penalty provisions where a reasonable good faith basis for the tax return position exists or where the understatement of tax liability does not exceed the greater of ten percent of the correct tax liability or \$3,000.

Your Committee believes the the intent of the bill is to encourage compliance with the tax laws and to discourage tax return preparers from taking frivolous positions on tax return items.

Upon consideration, your Committee amended the bill to delete the exception to the definition of "tax return preparer" pertaining to preparers of a notice of deficiency, as there is no provision for the notice of deficiency under Hawaii law.

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

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (McCartney, Chumbley, Tam).

SCRep. 1975 Judiciary on S.B. No. 3234

The purpose of the bill is to permit law enforcement officers to arrest a person for driving without a driver's license.

Prior to recent legislation which decriminalized traffic violations, the police were permitted to arrest someone for driving without a valid driver's license; however, with decriminalization, the authority to arrest was removed.

Your Committee finds that without discretion to arrest, police officers are often involved in situations where they cannot ascertain the true identity of an individual committing a traffic violation. Oftentimes, the individual gives the officer incomplete, inaccurate, or even false information. Without the power to arrest the individual, nothing more can be done than to issue a citation.

Your Committee further finds that not knowing the true identity of the individual prevents the officer from determining whether the person has outstanding warrants, temporary restraining orders, or may be wanted in a criminal investigation.

Your Committee received testimony in support of the bill from the honolulu police department and the State of Hawaii Organization of Police Officers.

The office of the public defender proposed an amendment to the bill to provide the police with the discretion to arrest a person for driving without a license, if the person does not provide the person's identity or if the officer believes the person is being deceptive or misleading in providing the person's identity. Your Committee amended the bill accordingly.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3234, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3234, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (McCartney, Tam, Anderson).

SCRep. 1976 Judiciary on S.B. No. 678

The purpose of this bill is to adopt the Interstate Corrections Compact.

Your Committee agrees with the intent of this bill, which would enable the State to enter into agreements for the transfer of inmates with any other State that is a member of the Compact.

Your Committee finds that the State is currently authorized under chapter 355, Hawaii Revised Statutes, to enter into the Western Interstate Corrections Compact, and, pursuant to section 353-16.2, Hawaii Revised Statutes, to transfer

committed felons to any out-of-state correctional institution that is not a Western Interstate Corrections Compact member if that transfer is in the interests of security or good management or the interest of the inmate.

However, according to testimony submitted to your Committee by the Department of Public Safety, other states that are not Western Interstate Corrections Compact members may not be authorized to enter into contracts with Hawaii. For example, the State of Connecticut, which is not a member of the Western Interstate Corrections Compact but is a member of Interstate Corrections Compact, has expressed an interest in receiving prisoners from Hawaii, but cannot contract with Hawaii unless Hawaii adopts the Interstate Corrections Compact.

Your Committee finds that if Hawaii adopts the Interstate Corrections Compact, the Department of Public Safety would be able to contract with Connecticut or any other Interstate Corrections Compact members, which would give the department needed flexibility in transferring inmates to other jurisdictions.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 678, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (McCartney, Tam, Anderson).

SCRep. 1977 Judiciary on S.B. No. 2487

The purpose of this bill is permit the Ombudsman to refer to the appropriate authorities a breach of duty or misconduct by any officer or employee of an agency without notice to that person.

Your Committee finds that this bill distinguishes this authority from the duty of the Ombudsman to notify an agency or person prior to the rendering of an opinion or recommendation as provided in section 96-11, Hawaii Revised Statutes.

Your Committee amended the bill to require the Ombudsman to report misconduct when there is a reasonable basis to believe that there may be a breach of duty. Your Committee finds that the current standard, which requires reporting when the Ombudsman "thinks" there is a breach is ambiguous.

Upon further consideration, your Committee finds that there may be occasions when it is inappropriate to require the Ombudsman to seek legal services solely from the Attorney General since the Ombudsman is authorized to investigate complaints against state and county executive branch agencies. Your Committee is concerned that this requirement may raise an apparent or actual conflict of interest in instances when the Attorney General takes a position in opposition to the Ombudsman or, is providing legal counsel to the agency under investigation. Moreover, your Committee is concerned that this practice may raise questions as to the inherent fairness of the investigation itself.

Therefore, your Committee amended the bill to authorize the Ombudsman to employ attorneys by contract or otherwise in accordance with the procurement code. Your Committee considered this matter affirmatively in S.B. 2488 and has since been advised that the title of the bill may be too narrow to encompass its purpose.

Your Committee believes that permitting the Ombudsman to retain legal counsel will ensure the independence and impartiality of the work of the Ombudsman as well as avoiding any appearance of impropriety.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2487, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2487, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Chumbley).

SCRep. 1978 Transportation and Government Affairs on S.B. No. 2965

The purpose of this bill is to exempt concessions operated at county botanic gardens and county parks by nonprofit corporations from the sealed bidding requirements applying to public concessions.

The City and County of Honolulu testified in support of the bill.

Your Committee has amended the bill to restrict the exemption to county botanic gardens or other county parks which are environmentally, culturally, historically, or operationally unique, and which are operated by nonprofit corporations incorporated under state law and operating under an agreement with the county solely for purposes of supporting county goals.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2965, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2965, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Solomon, Anderson).

SCRep. 1979 Education on S.B. No. 3004

The purpose of this bill is to allow two or more schools to jointly establish student-centered schools.

Your Committee finds that the concept of student-centered schools is to support innovation through alternative instructional and administrative frameworks that focus on putting the students first. Your Committee further finds that the ability of two or more schools to join together to form a student-centered school will further support and facilitate the implementation of such alternative frameworks that will focus on student learning and achievement.

Your Committee has amended this bill by:

- (1) Inserting language that will direct the revisor of statutes to conform the education recodification bill with the amendments in this measure; and
- (2) Making technical, nonsubstantive changes for the purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee 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 placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Matsunaga, Tam).

SCRep. 1980 Judiciary on S.B. No. 2233

The purpose of this bill is to amend various provisions of the Hawaii Revised Statutes and Session Laws of Hawaii pursuant to chapter 23G, Hawaii Revised Statutes, to correct errors, update references, clarify language, and delete obsolete or unnecessary provisions.

Your Committee finds that all of the statutory amendments proposed by this measure are of a purely technical nature and either contain no substantive changes to the law, or, if they have any substantive effect, are done simply to correct the types of errors noted in this report.

Your Committee finds the reasons for the respective technical amendments made in this bill are as follows:

Section 1. The prefatory language of §2 of L 1995, c 187, purports to amend section 6E-8, HRS, in its entirety. However, only the title and subsection (a) of section 6E-8 are set forth in the section. The effect of Act 187 was to delete subsections (b) and (c) of section 6E-8. The omission of section 6E-8(b) and (c) appears to have occurred as the result of a simple oversight. The language of subsections (b) and (c) should therefore be restored.

Section 2. The prefatory language of §2(6) of L Sp 1995, c 10, purports to amend section 11-196, HRS, in its entirety. However, only the title and subsection (a) of section 11-196 are set forth in the section. The effect of Act 10, Special Session Laws of Hawaii 1995 was to delete subsection (b) of section 11-196. The omission of section 11-196(b) appears to have occurred as the result of a simple oversight. The language of subsection (b) should therefore be restored.

Section 3. Section 103D-102(b), HRS, contains five paragraphs. While the language of paragraphs (1) to (3) is consistent with the introductory language of subsection (b), paragraphs (4) and (5) are not. Paragraphs (4) and (5) should be amended to be consistent grammatically with the introductory language of subsection (b). Additionally, paragraph (5) should be amended to eliminate the redundant reference to "governmental bodies" which is already established in the introductory language.

Section 4. Section 188-29(a)(1), HRS, allowed persons engaged in sport fishing to use throw nets with stretched mesh of not less than one and one-half inches until December 31, 1994, and mandated that thereafter, persons engaged in sport fishing must use throw nets with stretched mesh of not less than two inches. Subsection (a)(1) is now obsolete and redundant because the December 31, 1994 deadline is already past, and the two-inch stretched mesh requirement is stated in the opening clause of subsection (a).

Similarly, subsection (b) allows certain traps that are otherwise prohibited which are registered with the department of land and natural resources by October 1, 1989, to be used until June 30, 1994.

Section 188-29, HRS, should therefore be amended to delete subsection (a)(1), renumber the remaining paragraphs accordingly, and delete the proviso at the end of subsection (b).

Section 5. L 1995, c 164, §4 amended section 286-52, HRS, inter alia, by deleting the references to "certificate of registration" in subsections (b) and (l), leaving only the reference to "certificate of ownership" in the two subsections. Despite the deletion, however, subsections (b) and (l) still refer to two certificates. Subsections (b) and (l) should be amended to reflect the existence of only one certificate.

Section 6. L 1995, c 180, §4 amended section 342B-56(a) by adding the following sentence: "This subsection shall not apply before April 1, 1996 to violations of permits related to agricultural burning; provided further that the governor may extend this deadline for an additional three months to accomplish the purposes of this Act." Subsection (a) should be amended to delete the phrase "to accomplish the purposes of this Act" because after being merged into the larger context of HRS, it is unclear from the context as to what the phrase refers to.

Section 7. The definition of "reciprocal region" in section 412:5-400 presently refers to "the Commonwealth of the Northern Marianas". This reference should be changed to "the Commonwealth of the Northern Mariana Islands" to reflect the proper name of the commonwealth.

Section 8. The definition of "professional service" in section 415A-2, HRS, refers to section 554-2 as a chapter. The definition should be amended to appropriately refer to 554-2 as a section.

Section 9. As originally enacted by L 1985, c 259, pt of §1, section 415A-24 allowed a licensing authority to propound interrogatories to professional corporations. L 1987, c 135, §128 amended section 415A-24, in pertinent part, by deleting references to "licensing authority" and by allowing instead "the director" to direct interrogatories to professional corporations.

Section 415A-24, HRS, should be amended to: (1) change "its" to "the director's" in the second paragraph because while the term appropriately referred to the licensing authority, it does not appropriately refer to the director; and (2) make other technical, nonsubstantive changes.

Section 10. Section 415A-28, HRS, is amended by changing the section title from "Applications and existing corporations" to "Application to existing corporations". The title is amended to more accurately reflect the content of the section, i.e., the chapter's application to existing corporations.

Section 11. Section 425D-906, HRS, is amended by: (1) changing the section title from "Cancellation of registration" to "Certificate of withdrawal"; and (2) deleting the brackets around the section number. The title amendment is made to more accurately reflect the content of the section and to avoid possible confusion with section 425D-906.6, HRS, which is also entitled "Cancellation of registration". The deletion of the brackets around the section number ratifies the revisor's numbering of the section.

Section 12. Section 443B-3(c), HRS, is amended by: (1) deleting the cross reference to section 443B-7, which is repealed; and (2) changing the word "section" to "sections", for grammatical purposes.

Section 13. Section 448-15, HRS, is amended by deleting the obsolete cross-reference to chapter 416 and replacing it with the correct reference to chapter 415A. Chapter 416 was repealed by L 1987, c 135, §208.

Section 14. Section 468E-5(2), HRS, contains an obsolete reference to the American Speech and Hearing Association. The obsolete reference should be replaced with the current reference to the American Speech-Language-Hearing Association. Additionally, the second paragraph should also be reworded to replace the ambiguous reference "and/or" with one that is more precise.

Section 15. Section 576D-1, HRS, is amended by deleting the obsolete references to the "department of social services and housing" and to dates passed in the definition of "department".

Section 16. Section 576D-2, HRS, is amended by deleting the obsolete references to the department of social services and housing and to dates passed.

Section 17. Section 46-1.6(c), HRS, provides that: "If no homeowner insurance is provided pursuant to this section within two years of the effective date of this section, this section shall cease to be in effect"

The effective date of L 1993, c 339, which enacted section 46-1.6, was June 30, 1993. Section 46-1.6 should therefore be repealed as functus.

Section 18. Section 237D-3.5, HRS, should also be repealed as functus. Section 237D-3.5(f) provides that: "This section shall be repealed on January 1, 1995".

Section 19. Section 352D-8, HRS, should also be repealed as functus. Section 352D-8(a) provides that the office of youth services oversight committee (which apparently was never established) "shall terminate on June 30, 1995".

Section 20. L 1991, c 335, enacted chapter 42D, HRS, effective July 1, 1992. Chapter 42D, HRS, was amended by L 1992, c 194. Act 194 was approved by the governor on June 12, 1992, took effect on July 1, 1992, and is repealed on July 1, 1996. The sections enumerated in section 20 and amended by various other sections in Act 194 will be reenacted in the form in which they read on the day before the approval of the Act which is June 11, 1992 -- before the Act establishing chapter 42D in the first place ever took effect.

The amendment to section 42D-1, HRS, by L Sp 1993, c 8, §54, will survive the June 11, 1992, reenactment as provided by L 1995, c 118. However, the other sections of chapter 42D amended by Act 194 are to be reenacted in the form in which they read on June 11, 1992. Because chapter 42D was not in effect until July 1, 1992, there is an ambiguity as to what will be reenacted on June 11, 1992.

Accordingly, to ensure that chapter 42D is not lost, Act 194, section 20 should be amended to state that upon repeal on July 1, 1996, the amended sections of chapter 42D shall revert to the language as enacted by L 1991, c 335 and as provided by L 1995, c 118.

Additionally, section 20 should be amended to delete various sections of chapter 42D which were erroneously enumerated as amended by Act 194.

Section 21. Section 11-193, HRS, was amended by L Sp 1995, c 10, which made major changes to the campaign spending laws, and c 27, which created the office of elections.

In general, the amendments to section 11-193 by the two acts are as follows:

Act 10 deleted references to the lieutenant governor to specify that the duties to regulate campaign contributions and expenditures lie with the campaign spending commission and not the lieutenant governor.

Act 27 made a conforming amendment by substituting the term "chief election officer" for references to the "lieutenant governor" relative to the creation of the office of elections.

Also, section 13 of Act 27 provided that the amendment to section 11-193 shall be conformed to amendments made by other acts passed during the regular session of 1995. While no regular session act amended this section, Act 10 of the 1995 special session did. Act 10 was a reintroduction of HB 2094 of the regular session, a bill vetoed by the governor on June 9, 1995, because it passed final reading three days before the general appropriations bill, a violation of Article VII, Section 9 of the State Constitution.

Further, section 25 of Act 27 provided that the Act is repealed on June 30, 1999, and the HRS sections amended in that Act, section 11-193 included, are reenacted to the form in which they read on June 30, 1995. This provision will restore the lieutenant governor as the regulator of campaign contributions and expenditures, thereby undoing the express amendments made by Act 10.

To resolve this uncertainty, Act 27 should be amended to delete the amendment and references to section 11-193, thereby giving supersession to special session Act 10, in order to eliminate any ambiguity that may arise from the amendments to that section.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2233 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (McCartney, Chumbley, Tam).

SCRep. 1981 Judiciary on S.B. No. 2890

The purpose of this bill is to give the Director of Public Safety a reasonable degree of flexibility in selecting an out-of-state correctional institution to which to transfer committed felons.

Specifically, this bill removes the requirement that the out-of-state institution be in compliance with American Correctional Association standards. It replaces the requirement with the more flexible, practical one that the institution be in compliance with the appropriate health, safety, and sanitation codes of the other state and that the institution provide a level of program activity suitable to the inmate.

Furthermore, this measure also makes some clarifying and technical amendments.

Your Committee finds that many well-run institutions do not necessarily subscribe to American Correctional Association standards. Instead, they subscribe to suitable standards adopted by the state. The State's requiring a willing out-of-state institution to adjust its programs and facilities to also meet American Correctional Association standards will result in higher costs to the State.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2890 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (McCartney, Tam, Anderson).

SCRep. 1982 Ecology and Environmental Protection on S.B. No. 2199

The purpose of this bill is to amend the hazardous waste statute to include "fuel" and "used oil" and amend the used oil statute to distinguish "recyclable used oil" which is oil that is not hazardous waste, from "used oil".

Your Committee adopted the recommendations suggested in the testimony of the director of health and amended this bill by consolidating the regulation of "used oil" and "used oil fuel" under a new part of the hazardous waste statute and repealing chapter 342N, Hawaii Revised Statutes, relating to used oil transportation, recycling, and disposal.

As affirmed by the record of votes of the members of your Committee on Ecology and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2199, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2199, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Aki, Chumbley).

SCRep. 1983 Ecology and Environmental Protection on S.B. No. 2535

The purpose of this bill is to prevent the Department of Health from enforcing any rule which establishes minimum lot size requirements for the construction and operation of cesspools in areas zoned for rural or agricultural uses.

Your Committee has amended this bill by deleting its contents and adding a directive to the department of health to review the rules, procedures, and variances relating to minimum lot size requirements for the construction and operation of cesspools in areas zoned for rural or agricultural uses and to report back to the 1997 legislature.

Your Committee finds that the department of health requires landowners currently using cesspools to dispose of wastewater, who apply for building permits for expansion of their homes and add to wastewater flow, to upgrade to a septic tank system or sewer hook-up. Septic systems cost approximately \$6,000.

Your Committee also finds that many locations in Hawaii are in remote areas that are not on sewer lines.

Your Committee notes that in some parts of the State, the soil composition may be such as to enable appropriately designed cesspools to effectively treat wastewater disposal.

As affirmed by the record of votes of the members of your Committee on Ecology and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2535, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2535, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Aki, Chumbley).

SCRep. 1984 Consumer Protection on S.B. No. 2329

The purpose of this bill is clarify chapter 26H, Hawaii Revised Statutes (HRS), the sunset law, by providing that only the regulatory programs listed in that section will be automatically repealed, and by specifying the repeal date. The bill also provides that chapter 467E, HRS, relating to social workers, shall be repealed on December 31, 2000.

Present law provides that a professional or vocational regulatory program enacted after July 1, 1994, shall be repealed on the third full calendar year following the program's enactment. There is potential ambiguity as to what is a professional or vocational program, and what the date of enactment is. This bill would eliminate the possibility for such ambiguity.

Testimony in support of the bill was received from the Legislative Auditor, the Department of Commerce and Consumer Affairs, and the National Association of Social Workers.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2329 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Aki).

SCRep. 1985 Consumer Protection on S.B. No. 2456

The purpose of this bill is to amend chapter 431M, Hawaii Revised Statutes, to require that insurance benefits include treatment of mental health and alcohol and drug abuse by advanced practice registered nurses (APRNs).

Your Committee finds that APRNs collaborate and consult with other health care providers and refer to appropriate providers when a particular case falls outside of the APRN's scope of practice. APRNs are certified to prescribe certain pharmacologies, but they are not certified to prescribe controlled substances.

Your Committee further finds that there is a need to expand mental health and substance abuse services. The Hawaii Nurses' Association submitted the following information:

- (1) On the island of Hawaii a high priority was placed on expanding access to primary care for persons with mental illnesses and/or substance abuse problems.
- (2) On the island of Kauai over thirty per cent of the adult population and nearly twenty per cent of high school seniors are heavy alcohol drinkers, and sixty-six per cent of survey respondents noted a lack of personnel, services, and programs for chemical dependency and mental health.
- (3) Maui county has a basic need for specialized services for the dually diagnosed (mental illness/substance abuse), and integrated, holistic treatment approaches which are the forte of the nursing profession. Affordable outpatient counseling and aftercare services are extremely lacking.
- (4) Central Oahu has a lack of in-patient and out-patient services, and heavy drug abuse in adolescents and adults. For the years of 1992 to 1995, the percentage of the need met in the area of acute crisis stabilization remained at zero per cent.

Your Committee notes that APRNs have been receiving reimbursement from federal health programs for a number of years.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2456 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Aki).

SCRep. 1986 Consumer Protection on S.B. No. 2459

The purpose of this bill is to establish criteria for limited temporary certification of emergency ambulance service personnel.

Testimony in support of the bill was received from the Board of Medical Examiners, the Department of Health, and Kapiolani Community College. Your Committee was informed that present training standards for emergency ambulance service personnel varies from state to state, and that temporary certification is given only to those persons who have completed a Hawaii emergency medical services course of training. The adoption of these criteria would allow persons from out of state to become temporarily certified through a clinical peer review process. This will give Hawaii the benefit of having the services of qualified personnel without sacrificing Hawaii's standards of training and knowledge.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2459 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Aki).

SCRep. 1987 Consumer Protection on S.B. No. 2502

The purpose of this bill is to amend the qualifications for a waiver from continuing education requirements for the renewal of a real estate broker or salesperson license.

Specifically, the bill:

- (1) Allows for the waiver of continuing education requirements if a licensee who has at least twenty years on active status, also has practiced as an active, full-time real estate broker or salesperson for at least three consecutive licensing bienniums immediately preceding the application for renewal;
- (2) Repeals the provision that allows trustees of private trusts to qualify for such a waiver;
- (3) Requires trustees of charitable trusts, attorneys, and accountants, to be involved in real estate as a full-time occupation for the past licensing biennium in order to qualify for the waiver;
- (4) Repeals the provision that allows a licensee who participates in community service to qualify for such a waiver;
- (5) Excludes licensees appointed to the Real Estate Commission from obtaining a waiver under the rendering of public service category; and
- (6) Requires that in order to qualify for the waiver under the public service exemption, a licensee must have participated in public service for at least eight years immediately preceding the application for renewal.

Your Committee believes that the bill would clarify ambiguous and overly broad language regarding the continuing education waiver for real estate brokers and salespersons.

Your Committee has amended the bill by deleting section 2 of the bill and making a technical amendment for the purpose of clarity.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2502, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2502, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Aki, Ige, Iwase).

SCRep. 1988 Consumer Protection on S.B. No. 2518

The purpose of this bill is to provide that nondepository financial services loan companies (FSLCs) licensed on July 1, 1993, are not required to form a separate Hawaii corporation.

Your Committee finds that the Code of Financial Institutions, Chapter 412, Hawaii Revised Statutes, requires that all FSLCs licensed as such on July 1, 1993 (the effective date of the Code), but which were not incorporated in Hawaii on that date, to be incorporated in Hawaii by July 1, 1996. This requirement was enacted primarily to ensure that the books and records of these companies are readily available to the Commissioner of Financial Institutions (Commissioner) for examination purposes.

Your Committee believes that since the underlying basis for the separate Hawaii incorporation requirement was to ensure full and open access to books and records, these issues should be adequately addressed in the Hawaii Revised Statutes at the same time as the "grandfathering" provision proposed by this bill.

Your Committee has amended this measure, therefore, by deleting all existing language and substituting language to:

- (1) Require nondepository FSLCs to provide their books and records to the Commissioner within ten business days of written request;

- (2) Allow imposition of administrative fines for failure to provide the books and records; and
- (3) Delete the requirement of separate incorporation in Hawaii for nondepository FSLCs.

As affirmed by the records of votes of the members of your Committee on Consumer Protection that are attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2518, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2518, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Aki).

SCRep. 1989 Consumer Protection on S.B. No. 2521

The purpose of this bill is to allow nondepository financial services loan companies to issue standby letters of credit with the written approval of the commissioner of financial institutions.

Your Committee finds that letters of credit are presently issued by depository financial institutions and are instruments which include conditions that the bearer or named payee must meet to receive payment. Your Committee further finds that standby letters of credit are primarily issued by financial institutions to ensure performance of a contract or obligation by their borrower.

Your Committee has amended this measure by:

- (1) Inserting requirements that a nondepository financial services loan company issuing standby letters of credit report aggregate amounts of outstanding credit to the commissioner;
- (2) Capping the amount of credit outstanding to twenty per cent of the company's capital and surplus;
- (3) Prohibiting the use of standby letters of credit for consumer loan transactions;
- (4) Requiring the issuing company to identify itself as a nondepository financial services loan company in the letter of credit; and
- (5) Making technical, nonsubstantive changes for the purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2521, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2521, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Aki).

SCRep. 1990 Consumer Protection on S.B. No. 2532

The purpose of this bill is to regulate and restrict the use of the term "nurse" to registered nurses and licensed practical nurses.

Your Committee adopted the recommendations made in the testimony of the department of commerce and consumer affairs and the Hawaii Nurses' Association to refine the definition of the term "nurse" and to include advanced practice registered nurses.

Your Committee amended the bill by deleting the additional requirement for applying to the board for licensure by endorsement and by adding and conforming the provisions of the law on advance practice registered nurses. Your Committee also made a technical nonsubstantive change for purposes of grammar.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2532, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2532, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Aki).

SCRep. 1991 Consumer Protection on S.B. No. 2538

The purpose of this bill is to prohibit companies from offering gifts, prizes, or the like by written notice or telephone, without describing all material terms of the transaction, such as shipping and handling fees.

Your Committee finds that it is an increasing practice of certain companies to offer a prize or gift as a promotional incentive in the solicitation of consumers for the purchase, lease, or rental of a consumer product. Your Committee further finds that most often the value of the prize or gift is nominal and the shipping or handling expenses charged to the consumer may be more than the actual value of the prize or gift. Your Committee further believes that these practices require strict regulation to ensure that companies are aware of the specific provisions under which they may offer such gifts or prizes and that consumers receive complete information about the transaction.

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

- (1) Clarifying that it shall be an unlawful practice to require a person to send payment of money to receive or redeem a prize;
- (2) Inserting a provision requiring that offers of prizes by mail or through telephone include information: on the odds of winning the prize; that no purchase or payment is required to participate in a prize promotion; and instructions about how to participate in the promotion through mail or a toll-free telephone number; and
- (3) Making various technical, nonsubstantive changes for the purposes of clarity and proper drafting style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2538, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2538, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Aki).

SCRep. 1992 Consumer Protection on S.B. No. 2618

The purpose of this bill is to allow the motor vehicle industry licensing board to permit motor vehicle sales at off-premises events as defined in rules adopted by the board.

Your Committee finds that the motor vehicle industry licensing laws presently limit motor vehicle sales to the premises designated in the application for licensure approved by the board. Your Committee further finds that the board should be given the authority to permit sales at off-premises events provided that the board adopts rules defining such events. However, your Committee believes that consumers who attend such off-premises events should be provided additional protection with regard to any sale negotiated at these off-premises events since the events are usually located at a temporary location and are of a time-limited nature.

Thus, your Committee has amended this bill by:

- (1) Clarifying that the board shall permit sales at off-premises events as defined in rules adopted by the board pursuant to chapter 91; and
- (2) Inserting a provision in section 437-7(j), Hawaii Revised Statutes, requiring that a license to do business shall allow sales at off-premises events; provided that any sales contract negotiated at such events include a rescission clause allowing the purchaser to cancel the contract within seventy-two hours.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2618, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2618, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Aki).

SCRep. 1993 Consumer Protection on S.B. No. 2637

The purpose of this bill is to amend guidelines for insurance company investment in real property by:

- (1) Allowing insurers to invest in income generating real property;
- (2) Repealing the requirement that realty be acquired for the purpose of leasing for a period of not less than twenty years;
- (3) Repealing the requirement that the lessee erect buildings or other improvements at a cost equal to the value of the real estate; and
- (4) Repealing the requirement that the lessee pay rent that enables the owner to amortize the investment.

Upon the suggestion of the insurance commissioner your Committee has amended this bill by retaining the current statutory language, but adding a new subsection to section 431:6-311, Hawaii Revised Statutes, (HRS) that clarifies the intent of the amendments in this bill. Specifically, the new language reduces the aggregate amount of insurer assets that may be invested in real property for production of income from thirty per cent to ten per cent under the following conditions:

- (1) Investment in a single parcel of real estate may not exceed five per cent of the company's assets; and
- (2) The investment must produce sufficient cash-flow to amortize the mortgage.

Your Committee has further amended this bill by renumbering the subsections in section 431:6-311, HRS, and correcting internal references.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2637, as amended, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2637, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Aki).

SCRep. 1994 Consumer Protection on S.B. No. 2725

The purposes of this bill are to eliminate the supervision and examination of business development corporations by the Commissioner of Financial Institutions, and to repeal a sunset clause relating to voiding chapter 420, Hawaii Revised Statutes (HRS), in the event no corporation is organized by the sunset date.

Your Committee finds that there are no safety and soundness issues regarding business development corporations that require the supervision and examination by the Commissioner of Financial Institutions. Self-supervision and examination by individual participating Hawaii financial institutions which elect to participate as members of business development corporations ensure the safety and soundness of Hawaii financial institutions.

Your Committee further finds that the sunset provision contained in chapter 420, HRS, is obsolete since a business development corporation was organized on or before the sunset date.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2725 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Aki, Levin, Anderson).

SCRep. 1995 Consumer Protection on S.B. No. 2727

The purpose of this bill is to require that any title insurer or insurer which operates as an escrow depository be licensed as an escrow depository.

Your Committee finds that presently, insurance companies (which includes title insurance companies) authorized to do business in this State may operate as escrow depositories which are exempt from all requirements under chapter 449, Hawaii Revised Statutes, entitled Escrow Depositories.

Your Committee further finds that this bill will prevent duplication of efforts and conserve resources by regulating escrow depositories under one program rather than regulating them under both the Insurance Division and the Division of Financial Institutions.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2727 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Aki, Levin, Anderson).

SCRep. 1996 Consumer Protection on S.B. No. 2728

The purposes of this bill are to:

- (1) Increase the minimum amount of the fidelity bond filed by surety insurers from between \$5,000 and \$25,000 to not less than \$25,000;
- (2) Increase the errors and omissions insurance policy for escrow depositories from between \$50,000 and \$100,000 to not less than \$100,000;
- (3) Provide for a flexible deductible amount subject to the approval of the Commissioner for both the fidelity bonds and the errors and omissions insurance policies; and
- (4) Provide for the deposit of fees, penalties, and other charges assessed against escrow depositories into the Financial Institution Examiner's Revolving Fund.

Your Committee finds that the increase in the minimum amounts required for fidelity bonds and the errors and omissions insurance policies proposed in this bill more realistically reflect the dollar amount of present day escrow transactions and will better protect the parties in escrow transactions.

Your Committee further finds that the flexible deductible amounts will enable the escrow depositories to more easily obtain bonding or insurance while enabling the Commissioner to tailor the deductible to a particular escrow company's size and the extent of its operations.

Your Committee also finds that Chapter 449, Hawaii Revised Statutes, is administered by the Commissioner of Financial Institutions. Fees, penalties, and other charges assessed under this chapter should be deposited into the Financial Institution Examiners' Revolving Fund.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2728 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Aki, Levin, Anderson).

SCRep. 1997 Consumer Protection on S.B. No. 2731

The purposes of this bill are to allow domestic corporations to amend and restate their articles of incorporation by complying with sections 415-49, 415-60, and 415-64, Hawaii Revised Statutes, and filing the amended and restated articles of incorporation with the Director of Commerce and Consumer Affairs, and to amend certain provisions of corporation law relating to filing requirements for voluntary dissolution.

Your Committee finds that the amendments contained in the bill will provide the Business Registration Division of the Department of Commerce and Consumer Affairs with the ability to give improved and efficient service to the business community by allowing combined filings for amendments and restatements of articles of incorporation.

Your Committee has made nonsubstantive technical amendments for clarity.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee 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 the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Aki, Levin, Anderson).

SCRep. 1998 Consumer Protection on S.B. No. 2732

The purpose of this bill is to make housekeeping changes regarding foreign insurers.

The bill replaces the term "accreditation" with the term "certification" to appropriately reflect the process through which a foreign insurer seeks to become licensed in the State.

The measure also replaces the term "penalty" with the term "fine" in the provision describing the liability of insurers failing or refusing to submit the required annual filings to make the provisions consistent with the other penalty provisions in the Insurance Code.

Your Committee received supporting testimony from the State Insurance Commissioner.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2732 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Aki, Levin, Anderson).

SCRep. 1999 Consumer Protection on S.B. No. 2735

The purpose of this bill is to amend various sections of the insurance code relating to accident and sickness policies.

This administration bill would:

- (1) Amend the definition of "medicare supplement policy" to include the appropriate citation to federal statute and to clarify the reference to the federal Social Security Act, as required by 1994 amendments to the Social Security Act;
- (2) Clarify that provisions relating to medicare supplement policies do not prohibit or apply to insurance policies or health care benefit plans, to conform to the model law of the National Association of Insurance Commissioners (NAIC);
- (3) Reinstate language deleted in 1993 to allow the insurance commissioner to adopt rules to conform medicare supplement policies to the requirements of federal law, for which reinstatement is allowed by federal law effective July 7, 1995;
- (4) Clarify that medicare supplement policies must be group policies to require the return to policyholders of those benefits which are reasonable in relation to the premium charged, as calculated in accordance with minimum standards for loss ratios determined by rule adopted by the insurance commissioner; and
- (5) Amend the disclosure standards law for the sale of medicare supplement policies to conform with the NAIC model law.

Your Committee received supporting testimony from the Insurance Commissioner to the effect that this bill is basically housekeeping in nature without altering existing substance.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2735 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Aki, Levin).

SCRep. 2000 Consumer Protection on S.B. No. 2737

The purposes of this bill are to amend the unaccredited degree granting institutions law to:

- (1) Add a definition for "department" to mean the Department of Commerce and Consumer Affairs;
- (2) Repeal the requirement that unaccredited degree granting institutions disclose provisional accreditation;
- (3) Clarify that the commission of a prohibited practice constitutes an unfair or deceptive act or practice;
- (4) Repeal the requirement that unaccredited institutions register with the Department of Commerce and Consumer Affairs; and
- (5) Prohibit the issuance of a Juris Doctor degree, Master of Laws degree, or any equivalent degree by any unaccredited school or any accredited school which is not accredited by the American Bar Association.

Your Committee finds that removing the requirement that unaccredited institutions disclose provisional accreditation is in accord with the intent of the statute since provisionally accredited institutions are excluded from the definition of "unaccredited institutions".

Your Committee further finds that the Department of Commerce and Consumer Affairs and more specifically, the Office of Consumer Protection does not have the staff or the budget to administer a registration system in any meaningful manner.

Your Committee also finds that the prohibition of granting law degrees by unaccredited institutions reflects the policies of Article VI of the Constitution of the State of Hawaii, chapter 605, Hawaii Revised Statutes, and the need to protect the public from persons who use the degree without meeting all licensure requirements.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2737 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Aki, Levin).

SCRep. 2001 Consumer Protection on S.B. No. 2739

The purpose of this administration bill is to make certain housekeeping amendments to the gift certificate law (section 481B-13, Hawaii Revised Statutes, enacted in 1992).

This bill would:

- (1) Extend from one to two years the period in which the merchant is required to honor the certificate, and repeal the requirement that the merchant extend the period an additional year if the customer is unable to redeem it in one year;
- (2) Require that the expiration date be on the face of a certificate that has an expiration date; and repeal the requirement that the expiration date on the face be at least one year from the date the issuance date; and
- (3) Clarify the definition of "gift certificate" to include any writing for which the merchant has received payment for the future purchase or delivery of goods or services, regardless of whether full face value has been paid by the customer.

Your Committee finds that current law provides that a gift certificate shall be good for one year, but current law also requires that the certificate be subject to extension for a year. In essence and effect, this means that the certificate is good for a period of two years. This bill would remedy that apparent contradiction by requiring that the certificate be good for two years and relieving the merchant of having to print the possibility of a one year extension on the face of the certificate.

On recommendation of the Department of Commerce and Consumer Affairs, your Committee has amended this bill by leaving in the requirement that the merchant receive full face value for purchase of the certificate under the definition of "gift certificate." According to the Department's testimony, objections have been raised against amending the definition of certificates to include those for which less than full consideration has been paid.

Your Committee notes that this bill does not apply to credit unions.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee 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 placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Aki, Levin).

SCRep. 2002 Consumer Protection on S.B. No. 2741

The purpose of this bill is to make specific revisions to door-to-door sales law by:

- (1) Amending the title of the chapter from "Door-To-Door Sale" to "Cooling-off Period For Off-Premises Sales";
- (2) Alphabetically reordering section 481C-1, Hawaii Revised Statutes (HRS) entitled Definitions, and amending the definitions of "door-to-door sale" and "consumer goods and services";
- (3) Amending the penalties section of chapter 481C, HRS, to make it more consistent with the unfair or deceptive act or practice law in section 480-2, HRS; and
- (4) Repealing section 481C-2.5, HRS, relating to unlicensed contracting.

Your Committee finds that the chapter title change and amendments to the definitions of "door-to-door sale" and "consumer goods and services" are consistent with comparable federal law. The chapter title and new definition of "door-to-door sale" now indicate that the chapter applies to sales which are off of the seller's premises instead of only door-to-door.

Your Committee further finds that section 481C-2.5, HRS, which only gives a consumer a thirty day right to cancel should be repealed because it is inconsistent with sections 481C-4(b) and 444-22, HRS, which totally prevent an unlicensed contractor from any recovery or otherwise enforcing a contract.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2741 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Aki, Levin).

SCRep. 2003 Consumer Protection on S.B. No. 2744

The purpose of this bill, which is an administration measure, is to repeal part VIII, chapter 445, Hawaii Revised Statutes (HRS), dealing with county licensing of solicitors, and to repeal chapter 468, HRS, dealing with state licensing of solicitors.

The Department of Commerce and Consumer Affairs (DCCA) and the City and County of Honolulu (City) submitted testimony in support of the bill. The City noted that it had not issued a solicitor's license since 1983. DCCA stated that it did not issue solicitor's licenses. Further, to the extent there is a need to regulate solicitors, that need is filled by a new Federal Trade Commission rule that protects consumers from deceptive and abusive telemarketing practices.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2744 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Aki, Levin).

SCRep. 2004 Consumer Protection on S.B. No. 2745

The purpose of this bill, which is an administration housekeeping bill, is to provide that the Director of the Department of Commerce and Consumer Affairs (DCCA), rather than the Director of the Office of Consumer Protection (OCP), may seek injunctions under section 603-23, Hawaii Revised Statutes (HRS). Presently that section provides that the Director of OCP may seek injunctions for the violations of laws and ordinances.

DCCA submitted testimony in support of this bill and informed your Committee that the Director of DCCA was in fact also the Director of OCP. The bill would clarify the ability of other DCCA attorneys, not involved with representation of OCP, to also seek injunctions under section 603-23, HRS.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2745 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Aki, Levin).

SCRep. 2005 Consumer Protection on S.B. No. 2746

The purpose of this bill is to make the laws on advertising by motor vehicle dealers consistent with the general rules of unfair or deceptive practices in advertising.

This administration bill would delete the terms "wholesale", "free", and "cost" from among the terms that are considered to be false, deceptive, or misleading regarding pricing in any retail motor vehicle advertising.

Your Committee finds that the term "wholesale" is common parlance in the minds of consumers and does not necessarily create confusion. That term is not technically used in the trade by dealers since there is no wholesale price for a vehicle. Your Committee further finds that the term "cost" is used in the trade and should not be considered as a prohibited term in advertising.

Your Committee has amended the bill by retaining "free" as a term to be considered false, deceptive, or misleading. Your Committee also has made technical, nonsubstantive amendments.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2746, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2746, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Aki, Levin).

SCRep. 2006 Consumer Protection on S.B. No. 2749

The purposes of this bill are to:

- (1) Eliminate the licensing requirements for motor vehicle auctioneers, manufacturers, factory branches, factory representatives, distributors, distributor branches, and distributor representatives; and
- (2) Amend the licensing requirements by allowing the executive officer to grant preliminary approval of a dealer or auction license application if all licensing requirements have been met and the applicant's inspection report is satisfactory, subject to board approval.

Your Committee finds that elimination of licensing requirements for motor vehicle industry categories is in agreement with the recommendations made by the Office of the Auditor in its 1995 Sunset Review of the Motor Vehicle Industry Licensing Board.

Your Committee further finds that existence of federal regulation of these motor vehicle industry categories allows the elimination of state regulations. Additionally, the low number of consumer complaints against these motor vehicle industry categories and against auctioneers does not warrant continued licensing requirements. Your Committee also notes that auctioneers are trade specialists who normally do not work on commission and do not sell or deal directly with the consuming public.

Your Committee has made several technical, nonsubstantive amendments for purposes of style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2749, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2749, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Aki, Levin).

SCRep. 2007 Consumer Protection on S.B. No. 2750

The purposes of this bill are to:

- (1) Clarify the practice of the Board of Pharmacy with respect to the restoration of forfeited licenses;
- (2) Require pharmacists applying for licensure through reciprocity to have passed the same national examinations as those required of applicants in Hawaii at the time of licensure in the other state; and
- (3) Allow those applicants to fulfill only those requirements that they are lacking, rather than requiring them to fulfill all requirements anew, and allow them to receive a temporary permit while they are doing so.

Your Committee finds that this administration measure is supported by the Board of Pharmacy as a means of codifying current board practices and conforming laws relating to reciprocity to national practices.

Your Committee believes that this bill will ensure that the highest standards are used to license and regulate pharmacists in this State.

Your Committee has amended this bill by deleting the amendment to Section 461-7, Hawaii Revised Statutes, which it believes is unnecessary, and by making several other technical and clarifying stylistic changes to better effectuate the purposes enumerated by the Board of Pharmacy.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2750, as amended herein, and recommends

that it pass Second Reading in the form attached hereto as S.B. No. 2750, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Aki, Levin).

SCRep. 2008 Consumer Protection on S.B. No. 2751

The purpose of this bill is to allow doctors of medicine who are licensed in other states to qualify for licensure to practice in the State if certain requirements are met.

Specifically, the bill allows applicants who wish to practice medicine in the State of Hawaii and who are licensed in another state by virtue of having passed a state-produced examination to qualify for licensure if they have passed the Special Purpose Examination (SPEX) and meet the requirements of section 453-4(b), Hawaii Revised Statutes. The Board of Medical Examiners may also use letters of evaluation, professional evaluation forms, and interviews with chiefs of service or attending physicians who have been associated with an applicant, or chief residents on a service who have been associated with an applicant during the applicant's training or practice, in assessing the applicant's qualifications to practice medicine.

Your Committee finds that a doctor of medicine who possesses the above listed qualifications should be entitled to practice medicine in the State of Hawaii.

Your Committee has amended the bill by adding a provision to the bill that requires applicants for licensure to practice medicine in the State to complete at least one year of residency prior to taking the licensure examination. In the case of applicants who attended a foreign medical school, the applicant must complete at least two years of residency prior to taking the licensure examination.

In addition, your Committee has made other amendments that are technical in nature and which have no substantive effect.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2751, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2751, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Aki, Levin).

SCRep. 2009 Consumer Protection on S.B. No. 2962

The purpose of this bill is to repeal certain statutes regulating driver training school and driving instructors, food products, restaurants, solicitors, and vehicles and drivers for hire.

Your Committee finds that in a majority of instances, the businesses covered under this bill are regulated at the State and again at the county level. This over-regulation is not only unnecessary and wasteful, but also disadvantages the very small businesses that are the backbone of Hawaii's economy. In several other instances, the substance of the statutes to be repealed is covered elsewhere in the Hawaii Revised Statutes.

Your Committee has amended this measure by adding the definition of "restaurant" that the bill repeals but which was left out in drafting.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2962, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2962, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Aki, Ige, Iwase).

SCRep. 2010 Consumer Protection on S.B. No. 3098

The purpose of this bill is to update the law regulating osteopathic physicians. Specifically, this bill:

- (1) Prohibits discrimination against osteopathic physicians;
- (2) Authorizes osteopathic physicians to exercise all the rights and privileges accorded to doctors of medicine and surgery;
- (3) Allows candidates for licensure as osteopathic physicians to participate in the University of Hawaii school of medicine residency program;
- (4) Authorizes osteopathic physicians to apply facial tattoos and administer injections in the application of tattoos without a license under the tattoo artists law;
- (5) Allows osteopathic physicians to form cooperative cooperations under the physicians and surgeons cooperative indemnity law;

- (6) Includes osteopathic physicians along with medical doctors within the definition of the "practice of pharmacy" under the pharmacists and pharmacy law; and
- (7) Authorizes the governor to consider the appointment of osteopathic physicians to the radiologic technology board.

Your Committee agreed with the testimony of the department of commerce and consumer affairs and the board of osteopathic examiners and believes an equal protection provision in favor of licensees within the licensing statutes would result in a statutory provision which is difficult and awkward to enforce.

Your Committee, therefore, adopted the department's and board's recommendation and deleted section 2 of the bill which proposed to create a new section in chapter 460, Hawaii Revised Statutes, prohibiting discrimination against osteopathic physicians. Your Committee also made technical, nonsubstantive changes to the bill for purposes of style and consistency.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee 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 the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Aki).

SCRep. 2011 Consumer Protection on S.B. No. 3266

The purpose of this bill is to make clarifying amendments to the State's mandatory disclosure on real property law.

Specifically, the bill amends various sections of Chapter 508D, Hawaii Revised Statutes, relating to mandatory seller disclosures in real estate transactions, by clarifying the applicability of the chapter to residential real property only and the conditions under which a buyer may rescind a real estate purchase contract. The bill also clarifies the facts, defects, or conditions that must be contained in a disclosure of real property condition statement.

Your Committee has amended the bill by:

- (1) Deleting the proposed definition of "Commission"; and
- (2) Making several technical amendments for the purposes of clarity and conformance to recommended drafting procedures.

Your Committee believes that the bill will clarify the intent of Chapter 508D, Hawaii Revised Statutes, thereby resulting in better adherence to and administration of mandatory disclosures on real property transactions.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3266, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3266, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Aki, Ige, Iwase).

SCRep. 2012 Judiciary on S.B. No. 2340

The purpose of the bill is to create a new section which requires hunting guides to be licensed and registered, and to impose penalties for violating these hunting guide regulations.

Your Committee finds that this bill is necessary to ensure professional hunting guides in this State have a current State hunting license, successfully complete the hunter safety course and register with the department of land and natural resources to show proof of compliance with the above two requirements. Additionally, the bill requires that this service be provided to only those with a current Hawaii hunting license and that an annual report be submitted to the department indicating the number of clients served and their state of residency.

Your Committee believes that this type of regulation is essential for both the protection of the fledgling profession of guiding and for the protection of their hunter clients.

The bill was amended by providing for the revocation and nonrenewal of the hunting guide's license in the event their annual report is not submitted within the time specified.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2340, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2340, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Chumbley, Matsunaga, McCartney).

SCRep. 2013 Judiciary on S.B. No. 2772

The purpose of bill is to prohibit the sale of single cigarettes or packs of cigarettes containing less than twenty.

Your Committee finds that the selling of cigarettes in quantities less than twenty is directed specifically at minors. On the mainland, single wrapped cigarettes have become the latest marketing ploy by the tobacco industry to attract new minor smokers.

Your Committee amended the bill by re-inserting language prohibiting sales of packs of cigarettes containing less than twenty. The amendment removes a loophole where persons could sell cigarettes in quantities of 2 to 19 and not fall within the bill's prohibition.

A further amendment deleted Section 2 from the bill. Your Committee believes that §709-908, Hawaii Revised Statutes, already bans the sale of tobacco to minors and does not require language banning single cigarette sales and packs containing less than twenty. The word "furnish" was also deleted from the type of conduct that is prohibited because individuals should not be prosecuted for giving a cigarette to someone else.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2772, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2772, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 7. Noes, none. Excused, none.

SCRep. 2014 Judiciary on S.B. No. 2985

The purpose of the bill is to clarify an apparent conflict between two sections in the administrative driver's license revocation statute concerning whether temporary driving permits may be extended. The bill also prohibits a court from remanding the matter back to the administrator, after judicial review.

Section 286-258(g), Hawaii Revised Statutes, states that in no event shall temporary permits be extended, while Section 286-259(j) states that temporary permits may be extended for good cause. The bill clarifies that Section 286-259(j) contains the proper language that an extension may be made for good cause.

After a decision to revoke a person's driver's license is made by the administrative driver's license revocation office (ADLRO), the person may appeal to the district courts for a review of this decision. After the district court has reviewed the ADLRO's decision to revoke the driver's license, current law is uncertain whether the district court may then remand the matter back to the ADLRO for further proceedings.

Your Committee believes that the driver's license revocation process was enacted with the intent for the ADLRO to make a simple, quick, and efficient determination whether to revoke a person's driver's license for driving under the influence of intoxicating liquor. Allowing for a procedure where the district court may then remand the matter back to the ADLRO defeats the original purpose of the legislation.

Your Committee amended the bill by including Saturdays in the ADLRO's computation of time periods. This provision was apparently, inadvertently removed from the bill.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2985, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2985, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 7. Noes, none. Excused, none.

SCRep. 2015 Economic Development on S.B. No. 3079

The purpose of this bill is to provide state support for expanded employee ownership and participation in Hawaii businesses. In particular, this measure requires the department of business, economic development, and tourism, among other things, to assist owners and employees of Hawaii businesses in establishing employee ownership and participation plans, and to establish a continuing education and promotional outreach program to publicize the opportunities inherent in employee ownership and participation, in general.

Your Committee finds that this bill is a reenactment of Chapter 213E, Hawaii Revised Statutes, which was repealed in 1993 when its sunset provision was not extended by the Legislature.

Your Committee supports this measure as an effective means of promoting the implementation of employee ownership plans in Hawaii, which in turn, will increase employee job satisfaction, productivity, service quality, and profitability, while reducing workers' compensation costs and costs resulting from absenteeism.

As affirmed by the record of votes of the members of your Committee on Economic Development that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3079, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Matsuura).

SCRep. 2016 Higher Education, Culture, and Arts on S.B. No. 2341

The purpose of this bill is to allow the system of community colleges to confer corresponding degrees for two and four year vocational technical education programs, and semiprofessional programs.

Your Committee agrees with the University of Hawaii's supporting testimony and finds that the increasing complexity of some programs may require more than two years of study. In addition, the community colleges offer instruction in a number of technical fields which are fully articulated components of four-year degrees.

Your Committee further finds that a number of community colleges throughout the United States have designed and established baccalaureate level degrees in technology related programs.

As affirmed by the record of votes of the members of your Committee on Higher Education, Culture, and Arts that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2341 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Fernandes Salling, Ikeda, McCartney).

SCRep. 2017 Communications and Public Utilities on S.B. No. 3068

The purpose of this bill is to update and clarify laws relating to telecommunication service offenses.

Your Committee finds that theft of telecommunication services is an increasingly serious problem resulting in significant financial losses for service providers. The Cellular Telecommunications Industry Association estimates, for instance, that in 1995 the industry lost \$650 million to fraudulent use.

Fraud is an industry-wide problem that impacts not only network capacity and the carrier's bottom line, but also has a significant impact on customers. Since losses due to fraud are generally "passed-through" to customers, customers not only pay higher average rates, but are also inconvenienced as they are billed for fraudulent usage traced to their telephones, and oftentimes must have their telephones reprogrammed to eliminate the continued perpetration of fraudulent activity or purchase new equipment if they wish to retain the same cellular telephone number.

Your Committee finds that while adequate federal statutory protections already exist for long distance toll fraud, and other types of communication services such as cable television and satellite-delivered services, no comprehensive protection for telecommunication services theft exists under current state law.

This bill will update Hawaii's criminal laws in order to keep pace with and combat the proliferation of highly sophisticated telecommunication services fraud.

Your Committee has amended this bill by:

- (1) Conforming the definitions of "telecommunication service provider" and "telecommunication service" to relevant definitions found in chapter 269, Hawaii Revised Statutes;
- (2) Adding a "reason to believe" standard to the offense of telecommunication service fraud in the first degree;
- (3) Deleting the definition of "publish" added to the section on telecommunication service fraud in the second degree as the word is not used in the section; and
- (4) Making technical, nonsubstantive amendments for drafting style.

As affirmed by the record of votes of the members of your Committee on Communications and Public Utilities that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3068, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3068, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Kanno).

SCRep. 2018 Transportation and Government Affairs on S.B. No. 2220

The purpose of this bill is to permit family members to be buried in family burial plots on their property.

Testimony in support of this bill was submitted by the Department of Health and the Department of Commerce and Consumer Affairs. Your Committee was informed that there is cultural value to the family tradition of burying family members in family burial plots. There are no health reasons which would prohibit this practice.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2220, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, none.

SCRep. 2019 Transportation and Government Affairs on S.B. No. 2685

The purpose of this bill is to delete the state archives as a depository for state and county publications.

The Department of Accounting and General Services submitted testimony in support of this bill. Your Committee learned that the public library system and the University of Hawaii Library also serve as depositories for state and county publications, and provide on-line cataloging for these materials. Designating the state archives as a depository is duplicative of the efforts of these larger library systems and detracts from the archives' ability to accomplish its other tasks.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2685 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.

Ayes, 5. Noes, none. Excused, none.

SCRep. 2020 Transportation and Government Affairs on S.B. No. 3054

The purpose of this bill is to provide that any county ordinance authorizing the removal of motor vehicles for traffic violations or because they are a hazard, shall provide that, if the registered owner does not pay the towing costs, the lien holder must do so before it can claim a vehicle from any towing company.

Michael Kitagawa, a Chevron owner, and the Hawaii Automotive Retail Gasoline Dealers submitted testimony in support of the bill. Your Committee learned that often when a vehicle was damaged or involved in illegal activities the registered owners would not claim the vehicle. Often such vehicles would be released to a lien holder without payment of towing and storage fees, and this imposes a hardship on the towing companies.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3054 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.

Ayes, 5. Noes, none. Excused, none.

SCRep. 2021 (Joint) Health and Ways and Means on S.B. No. 2522

The purpose of this bill is to make changes to the community hospitals system to allow for regional level decisionmaking by: creating five regional boards and a division board for community hospitals; allowing regional boards to appoint facility administrators; and exempting community hospitals from state procurement laws.

Your Committees received substantial testimony concerning this bill and related Senate Bill Nos. 2523 and 2779. While your Committees appreciate the need for changes to be made to the community hospitals system, your Committees are concerned with the department of health's change in position regarding the need for regional boards, as well as with the governor's public endorsement and intentions for privatization of the system. Your Committees believe that further discussion regarding the community hospitals system is needed prior to making dramatic changes to the existing system. Your Committees decided to extend the sunset provisions of the various acts which currently provide the division of community hospitals with certain exemptions, autonomy, and powers, to facilitate the continued existence of the system and encourage further discussion on the matter.

Your Committees amended this bill by replacing its contents with amendments to Act 211, Session Laws of Hawaii 1993, and Acts 188, 192, and 193, Session Laws of Hawaii 1994, extending the respective sunset provisions of the acts. These amendments continue for a period of two years, the exemptions, autonomy, and other powers currently granted to the division of community hospitals.

As affirmed by the records of votes of the members of your Committees on Health and Ways and Means that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2522, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2522, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairmen on behalf of the Committees.

Ayes, 7. Noes, none. Excused, 5 (Bunda, Fukunaga, Solomon, Taniguchi, Liu).

SCRep. 2022 (Joint) Ecology and Environmental Protection and Health on S.B. No. 2786

The purpose of this bill is to update and amend the environmental and health laws of the State. Specifically, this bill:

- (1) Removes the regulation of fish and fishing, cemetery and burying grounds, laundries, poisons and hazardous substances, pig and duck ranches, fumigation, tattoo artists, barbers, hairdressers, cosmeticians, cosmetologists, beauticians, industrial hygiene, and mattresses, from the health laws;
- (2) Repeals the environmental disclosure law; and
- (3) Amends the asbestos statutes to include department of health oversight of management plans.

Your Committees amended this bill to limit the scope to repealing the department of health's regulatory authority over fish and fishing, pig and duck ranches, and mattresses only as your Committees believe that amendment and repeal of the other statutory provisions are premature. It is the intent of your Committees, however, to encourage and facilitate the continued efforts of the department of health to review and update the laws pertaining to environmental and health.

As affirmed by the records of votes of the members of your Committees on Ecology and Environmental Protection and Health that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2786, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2786, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairmen on behalf of the Committees.
Ayes, 5. Noes, none. Excused, 3 (Aki, Ikeda, Kawamoto).

SCRep. 2023 Transportation and Government Affairs on S.B. No. 2489

The purpose of this bill is to allow owners of mopeds to restore altered, defaced, or destroyed original serial numbers to a moped or moped part if authorization for such restoration is given by the county director of finance or the county treasurer. This will avoid the destruction of a moped for lack of authority to restore serial or identification numbers. It makes the law as to mopeds in this regard comparable to the law for motor vehicles and bicycles.

The Ombudsman initially became aware of this problem and proposed this legislation to resolve the inequity of destroying mopeds with defaced serial numbers. The City and County of Honolulu and the Ombudsman testified in support of this bill.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2489 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Solomon, Taniguchi).

SCRep. 2024 (Joint) Agriculture, Labor, and Employment and Planning, Land and Water Use Management on S.B. No. 3214

The purpose of this bill is to authorize the Board of Agriculture to negotiate leases of public lands along with the Department of Land and Natural Resources under Act 237, Session Laws of Hawaii 1988.

Your Committees find that Act 237, Session Laws of Hawaii 1988 (Act 237) authorized the Department of Land and Natural Resources to enter into lease negotiations with revocable permittees on state-owned agricultural lands so that the permittees would be able to establish long-term land tenure, thereby allowing the permittees to secure financing for farm productivity enhancement.

However, permittees on agricultural lands under the control of the Department of Agriculture do not necessarily fall within the parameters of Act 237. These permittees are not, therefore, able to convert their revocable permits to long term leases as envisioned by Act 237.

Act 237 is scheduled to sunset on June 30, 1996. Additionally, because permittees are on Department of Agriculture controlled lands, your Committees believe that the more appropriate department to negotiate long term leases with such permittees is the Department of Agriculture.

Accordingly, your Committees have amended the bill by deleting its substance and inserting therefor language that authorizes the Department of Agriculture to negotiate long-term leases with certain permittees of agricultural lands.

Your Committees believe that the amendments made to the bill:

- (1) More efficiently address the concerns of the permittees;
- (2) Are in the public interest to assist qualifying permittees who depend on farming the state land for a livelihood; and
- (3) Are consistent with the objectives of the Hawaii State Plan.

Your Committees find that the State would realize greater returns from the long-term disposition of lands now under permit.

As affirmed by the records of votes of the members of your Committees on Agriculture, Labor, and Employment and Planning, Land and Water Use Management that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 3214, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 3214, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairmen on behalf of the Committees.
Ayes, 6. Noes, none. Excused, 5 (Holt, Ige, Ihara, Solomon, Taniguchi).

SCRep. 2025 Judiciary on S.B. No. 2005

The purpose of the bill is to modernize the criminal harassment statute to include communications made by telephone, facsimile and electronic mail transmissions. For these methods of harassment, the required element of proof that the victim or recipient reasonably believe that the harasser intends to cause bodily injury or property damage was removed.

Your Committee finds that harassment includes not only threats or actual harm made to another person, but also includes communications made to annoy another continually without legitimate purpose. These forms of harassment are extremely difficult to investigate and prosecute.

In addition, some forms of harassment lack any legitimate statement such as anonymous telephone calls made without the caller saying anything or those made at extremely inconvenient hours. The bill addresses this type of harassment by removing the requirement that the recipient of the communication reasonably believe the caller intends harm.

Your Committee received testimony in support of the bill from the Honolulu police department, Honolulu prosecuting attorney, Child and Family Service, Domestic Violence Clearinghouse and Legal Hotline, and Community Associations Institute.

The bill was amended to require repetition for communications made anonymously, at an extremely inconvenient hour, or after being advised that the communication is unwelcome. Repetition is also required for telephone calls and facsimile or electronic mail transmissions. The bill was also amended to provide for a new, reckless state of mind for the various conduct that harasses another, as suggested by the Honolulu prosecuting attorney.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2005, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2005, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (McCartney, Tam, Anderson).

SCRep. 2026 Judiciary on S.B. No. 2189

The purpose of the bill is to remove from the offenses of criminal property damage caused by fire, incendiary device or explosion, and to create separate arson offenses to be included in the penal code. The bill also clarifies that the authority to investigate fires belongs to both the police chief and the prosecuting attorney.

Nationally, arson is a serious matter. In Hawaii in 1994, 189 cases of arson caused an estimated \$2,648,239 of economic loss. Arson related crimes are increasing with increased the cost to the State to combat and investigate fires. In the private sector, arson costs insurance companies millions of dollars each year with the cost passed down to fire insurance policy holders.

Under current law, Hawaii is one of a few states that do not have a separate arson statute in the penal code. Presently, this State prosecutes arson cases as criminal property damage offenses.

Your Committee believes that by separating out cases involving damage or danger caused by fire, incendiary device or explosion, and by increasing the penalties for this conduct, the penal code will more accurately reflect the serious nature of arson cases.

Your Committee amended the bill by creating four new classes of arson to be included in the penal code, instead of two. They include Arson in the First Degree, a class A felony; Arson in the Second Degree, a class B felony; Arson in the Third Degree, a class C felony; and Arson in the Fourth Degree, a misdemeanor.

The amendments creating four classes of arson and their substantive language was approved by both the Honolulu prosecuting attorney and the office of the public defender. The Honolulu police department testified in support of the bill.

Your Committee made further amendments by deleting the sections requiring insurance companies to add anti-arson applications to all fire insurance policies, as was objected to by State Farm Insurance Company. Another amendment was made to permit instead of mandate that insurance companies share their fire investigation information for fire losses exceeding \$250. Your Committee also deleted the definition of "occupied structure" and all references to it from the bill.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2189, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2189, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (McCartney, Tam, Anderson).

SCRep. 2027 Judiciary on S.B. No. 2248

The purpose of the bill is to provide procedures for the family court to guide it in determining child custody and visitation issues when a parent has perpetrated family violence.

Your Committee received testimony in support of the bill from the Judiciary, Domestic Violence Clearinghouse and Legal Hotline, Hawaii Women's Political Caucus, Legal Aid Society of Hawaii, Parents and Children Together, Honolulu Police Department, and several individuals.

The Judiciary suggested major amendments to the bill to track the various, applicable sections contained within the Model State Code on family violence. The Model Code was drafted with the input from the family court judges of our state. Your Committee amended the bill by replacing the bill's existing sections with the appropriate sections and language from the Model Code, as suggested by the Judiciary.

As amended, the bill provides for procedures for the family court to decide custody and visitation issues with the well-being of the child as the primary issue. The bill lists several requirements the court can order for its visitation orders, including supervised visitation. The bill as amended also includes procedures and requirements for supervised visitation. When family violence has occurred, the bill also provides for injunctive relief in the court's orders, the violation of which shall be punished as contempt of court.

The bill also provides for mediation in spousal abuse cases, only upon the request and participation of both spouses. As the bill was amended to the standards of the Model Code, the procedures and requirements for mediation were also adopted from the Model Code.

Section 4 of the bill was deleted. This section stated that all court costs, attorney's fees, evaluation fees and expert witness fees shall be paid by the perpetrator of family violence. Your Committee believes that this section is actually counterproductive to the real issues of custody and visitation because it unintentionally increases the stakes economically for those before the court. An unintended result may be more protracted litigation before the family courts.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2248, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2248, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (McCartney, Tam, Anderson).

SCRep. 2028 Judiciary on S.B. No. 2249

The purpose of the bill is to allow the family court to extend protective orders, and to include temporary custody orders within the scope of family court protective orders.

Your Committee received testimony in support of the bill from the Judiciary, Hawaii Women's Political Caucus, Child and Family Service, Parents and Children Together, Domestic Violence Clearinghouse and Legal Hotline, Hawaii Medical Association, Legal Aide Society of Hawaii, and the Americorps National Service.

Currently, family court protective orders can be granted for a period up to three years; however, only a small minority of protective orders are issued for the full three years provided by statute. The majority of protective orders are granted for a shorter period.

In some cases, the petitioner decides that the protective order should be effective for a shorter time, not for the full three years. Based upon the evidence of each case, the family court may also grant protective orders for a period less than the maximum three years. However, current law does not provide for the extension of protective orders that were granted for a shorter period.

The bill allows for the original protective order to be extended. A petition must be made and the court shall hold a hearing to decide whether an extended protective order should be issued. The bill allows the family court to make temporary orders for child visitation and custody to be included within protective orders.

Your Committee believes that extending protective orders indefinitely for expediency purposes, as suggested by some of the testimony, is an inappropriate rationale and is overreaching. Under current law and procedure, a petitioner may still petition the court to obtain a new protective order for a subsequent period up to three years.

The bill was amended by providing for the extension of protective orders which were granted for a shorter period for up to three years from the date the original protective order was granted. Also, technical, nonsubstantive amendments were made for style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2249, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2249, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (McCartney, Tam, Anderson).

SCRep. 2029 Judiciary on S.B. No. 2381

The purpose of the bill is to broaden the offense of custodial interference in the first degree to include the abduction and removal of a child from the state in the absence of a court order and without good cause. The bill defines "good cause" as a reasonable good faith belief that the interference is necessary to protect both the child taken and the person who takes the child from acts of abuse within the household.

Under current law, a parent interfering with another parent's right to custody does not commit custodial interference, if there is no court order determining custody. When one parent takes the child out-of-state, law enforcement cannot begin an investigation until after a legal court order determining the child's custody has been made. Current law delays the search for the child who was taken out-of-state which reduces the chances for quick apprehension of the offender and return of the child.

The bill makes the taking of a minor out-of-state without good cause custodial interference, if it is done so without a court order and with the intent to deprive another person or a public agency of their right to custody.

Your Committee received testimony in support of the bill from the attorney general, Honolulu police department, Hawaii Women's Political Caucus, Domestic Violence Clearinghouse and Legal Hotline and several individuals.

Your Committee amended the bill by inserting the words "good cause" when reference is made to the person who engages in the prohibited conduct, but also acts with "good cause". The bill was further amended by clarifying that a relative or any other person acting on the relative's behalf are the persons prohibited from this conduct. Other technical, nonsubstantive amendments were made for the sake of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of 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 placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (McCartney, Tam, Anderson).

SCRep. 2030 Judiciary on S.B. No. 2471

The purpose of the bill is to increase the statute of limitations under the Hawaii penal code for fraud and breach of fiduciary duty crimes.

Your Committee finds that for crimes involving fraud and breach of fiduciary duty, it sometimes takes several years before the crime is uncovered. The discovery process for documentary evidence is often tedious, voluminous and difficult to unravel.

Custodians of documentary evidence such as banks and other financial institutions, especially those outside the jurisdiction of the State, often evoke privacy acts, limit the retrieval of documentary evidence, and extend the amount of time necessary to obtain the evidence of these crimes.

Since these complex crimes sometime take years to uncover, investigate, and prove, your Committee believes these factors warrant a reasonable extension of the statute of limitations.

The bill provided for a five year statute of limitations period for prosecution to commence. The bill also provided that prosecution may be commenced after this five year period has expired, in cases when the crime was not quickly discovered, for a further period of eight years.

The bill was amended by providing for a six year period in the first instance, and by providing for a four year period in cases where the crime was not quickly discovered. The amendments are consistent with 1995 legislation which provided similar time limitations in cases investigated by the ethics commission.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2471, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2471, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (McCartney, Tam, Anderson).

SCRep. 2031 Judiciary on S.B. No. 2536

The purpose of the bill is to make the failure to provide necessary sustenance to a domestic animal cruelty to animals under the penal code. The bill also defines "domestic animal" and "necessary sustenance".

The penal code's current statutory language covers more aggressive, violent acts of cruelty to animals. Current law does not specifically target cases of neglect in the penal code's cruelty to animals section.

The bill addresses the current problem with individuals neglecting their animals. The definition of "necessary sustenance" includes sufficient food, water, open space, and protection from the elements. The bill makes the failure to provide these basic animal necessities cruelty to animals.

Your Committee received testimony in support of the bill from the Hawaiian Humane Society, Hawaii Island Humane Society, and several individuals.

The bill included pets and domestic animals as those animals requiring necessary sustenance. Your Committee believes the term "pet" is too broad and subjective. The bill was amended by deleting references to pets and by including a definition of "domestic animal" to mean any animal other than livestock or poultry.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2536, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2536, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (McCartney, Tam, Anderson).

SCRep. 2032 Judiciary on S.B. No. 2655

The purpose of the bill is to provide additional remedies and penalties following the arrest or citation of a person for cruelty to animals.

The bill allows an animal whose treatment was the basis of the arrest or citation to be seized or impounded and placed with a humane society or society for the prevention of animals. The bill grants immunity to the society for the society's performance of these duties. The defendant may be ordered to post a bond sufficient to repay the costs to be incurred by the society in caring for the animal. If the defendant fails to post a bond, the animal is forfeited to the society.

Under current law, animals involved in cruelty cases must be held by the society until conviction. On occasion, humane societies have had to impound and keep large numbers of animals taken from a single defendant, sometimes for long periods of time, incurring tremendous costs to the society.

Presently, there is no statutory vehicle for the society to recoup these costs from the offender. Your Committee believes that the offender should pay for the upkeep of their animal throughout the pendency of their prosecution, instead of the taxpayers under current practice.

Your Committee received testimony in support of the bill from the Hawaiian Humane Society, Honolulu police department and several individuals.

The bill was amended by permitting a suspended sentence which subjects the defendant to court monitoring for one year to determine whether the defendant again engaged or engages in further violations. Further violations will subject the defendant to sentences pursuant to §706-605(5), Hawaii Revised Statutes, to include civil penalties such as the forfeiture of property and the closing of any of defendant's commercial facilities which furthers the violations.

The bill was also amended to provide a defendant's record of conviction to the department of human services, child protective services, upon the request of the department. Another amendment makes repeat offenders perform 200 hour of community service work, in addition to any other sentence.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2655, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2655, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (McCartney, Tam, Anderson).

SCRep. 2033 Ecology and Environmental Protection on S.B. No. 3083

The purpose of this bill is to amend the air pollution control law to require upgrade of emission control equipment to meet maximum achievable control technology standards at least every ten years.

Your Committee received substantial testimony raising serious concerns regarding this bill's adverse economic impact on neighbor island facilities and the difficulty of ascertaining maximum achievable control technology standards. Since this bill was inspired by recent events which occurred in Campbell Industrial Park, your Committee believes that modifying this bill to a ten year pilot program limited to Campbell Industrial Park would better accomplish the intent of the bill.

Accordingly, your Committee amended this bill to establish a ten-year pilot program limited to the Campbell Industrial Park area. The program will require covered sources of air pollution that have emission control equipment which are grandfathered from current Clean Air Act requirements, to reduce the emission of criteria air pollutant emitted in excess of five hundred tons per year, by at least fifty per cent of the emission rate allowable at the time of permit review or renewal. Your Committee further amended this bill by including a requirement that affected sources shall submit an assessment of the need or lack of need for upgrade of emission control equipment, at the time of permit renewal.

As affirmed by the record of votes of the members of your Committee on Ecology and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3083, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3083, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Aki, Ikeda).

SCRep. 2034 Planning, Land and Water Use Management on S.B. No. 3248

The purpose of this bill is to amend the laws relating to commercial use and operator permits issued for commercial thrill craft and parasailing activities within the State.

Specifically, the bill:

- (1) Provides for the full transferability of all commercial use and operator permits issued for commercial thrill craft and parasailing activities upon the payment of a business transfer fee in an amount determined by the Department of Land and Natural Resources (DLNR) or an amount equal to ten per cent of the transfer price, whichever is greater; provided that no more than one transfer per year shall be authorized with respect to any given permit;
- (2) Authorizes the DLNR to suspend a permit without hearing for any activity which does or may endanger the health or safety of passengers or the public; provided that the permit holder is afforded a hearing within fifteen days of the date of suspension, after which the suspension shall either be lifted or instituted for a period not longer than one year, or the permit shall be revoked; and

- (3) Authorizes use permits to be issued at public auction, and provides that they shall be valid for a period of five years, subject to a five year renewal period, following which they will be again put up for auction.

Your Committee notes that support of this measure should not be viewed as support for a proliferation in the number of permits issued pursuant to section 200-37, Hawaii Revised Statutes. Your Committee agrees that the underlying purpose of the present law remains valid. Specifically that thrill craft and parasailing activities carry with them certain inherent dangers and that commercial thrill craft and parasailing activities within the territorial waters of the State need to be regulated.

Your Committee has amended the bill by:

- (1) Limiting the ability to transfer a commercial use and operator permit to once every two years;
- (2) Clarifying that the business transfer fee be no less than ten percent of the transfer price;
- (3) Requiring the DLNR to annually review commercial use and operator permit holders' compliance with applicable departmental rules, tax laws, and safety records;
- (4) Clarifying that within ten days of the conclusion of a suspended commercial use and operator permit hearing, the DLNR must issue a ruling on the suspension;
- (5) Authorizing the DLNR to adopt rules to promote thrill craft and parasailing water safety and education programs; and
- (6) Requiring the DLNR to review current commercial use and operator permit holders' compliance with applicable departmental rules, tax laws, and safety records prior to extending their permit to conform with this bill.

As affirmed by the record of votes of the members of your Committee on Planning, Land and Water Use Management that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3248, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3248, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Holt, Ihara, Anderson).

SCRep. 2035 Judiciary on S.B. No. 2124

The purpose of the bill is to clarify that the prosecuting attorney shall be notified and shall have the right to be represented at the initial parole hearing and all subsequent parole hearings.

The Hawaii paroling authority's current practice is to timely notify the prosecutor's office of the initial parole hearing and minimum term of imprisonment hearing; however, the prosecutor's office has stated that it is not presently being informed of subsequent parole hearings such as reconsiderations and term reductions.

Your Committee finds that the prosecutor's office needs notification of any subsequent parole hearings so that they can provide representation at the hearings. Your Committee further finds that such notification will also provide the prosecutors with this necessary information that they then pass on to the victims to inform the victims of possible changes to the incarceration status of the defendant.

The bill provides necessary clarification so that the paroling authority gives these notices to the prosecutor. Your Committee received testimony in support of the bill from the hawaii paroling authority, honolulu prosecuting attorney, state attorney general, and several individuals.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2124 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (McCartney, Tam, Anderson).

SCRep. 2036 Judiciary on S.B. No. 2187

The purpose of the bill is to add the crime of manslaughter to the list of crimes against the elderly, handicapped or minors under the age of eight which would subject a defendant to an extended term of imprisonment.

Your Committee finds that offenses against the elderly, handicapped and children are especially egregious and a significant problem today. These persons are more vulnerable than the average person and should be afforded more protection. Special measures are necessary to ensure their safety and well-being.

The addition of manslaughter into the list of crimes against these persons which subjects a defendant to extended terms of imprisonment is consistent with protecting this class of victims.

Your Committee received testimony in support of the bill from the honolulu police department and the honolulu prosecuting attorney.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2187 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (McCartney, Tam, Anderson).

SCRep. 2037 Judiciary on S.B. No. 2250

The purpose of the bill is to remove the requirement of corroboration as an element of proof in arrests and prosecutions for promoting prostitution.

Under current law, more than one witness is required to give a statement before a person can be arrested and found guilty of promoting prostitution. The uncorroborated statement or testimony of one witness is not enough for an arrest or conviction.

The current statute not only stigmatizes certain witness who are predominately young females, but also provides a legal loophole for those promoting prostitution by making their conviction statutorily impossible when only one person under the promoter's control cooperates with law enforcement. The bill removes the corroboration requirement from the proof of this crime.

Your Committee received testimony in support of the bill from the honolulu police department, the state attorney general, the Hawaii Women's Political Caucus, the Aiea United Methodist Church, the Domestic Violence Clearinghouse and Legal Hotline, and the Hawaii State Commission on the Status of Women.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2250 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (McCartney, Tam, Anderson).

SCRep. 2038 Judiciary on S.B. No. 2694

The purpose of this bill is to repeal the statutory rule of construction which makes "and" and "or" completely interchangeable.

Your Committee finds that the drafters of bills purposefully choose the words "and" and "or" based upon whether the conjunctive or disjunctive meaning is intended. Therefore, a rule of construction which allows the interchangeable meaning of these words operates to defeat the legislative intent.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2694 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (McCartney, Chumbley, Tam).

SCRep. 2039 Judiciary on S.B. No. 2743

The purpose of this bill is to repeal duplicative statutory language that affirmatively authorizes the director of the Office of Consumer Protection to file an action against any motor vehicle repair dealer, mechanic, or apprentice for violations of the law.

Your Committee finds that the Office of Consumer Protection is empowered in general to file actions on behalf of the public for alleged violations by any business operating in Hawaii.

Your Committee is concerned that the existence of authority in specific instances may be wrongly interpreted as a limitation on the general authority of the Office of Consumer Protection regarding law violations in other regulated industries that do not contain similarly affirmative statutory authority.

Your Committee finds that repealing this specific authority will clarify legislative intent regarding the duty of the Office of Consumer Protection to enforce consumer law.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2743 and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 7. Noes, none. Excused, none.

SCRep. 2040 Judiciary on S.B. No. 2898

The purpose of the bill is to comply the State commercial driver's licensing law with federal standards in the area of "out-of-service orders".

An "out-of-service order" is an order that either a driver, commercial motor vehicle or motor carrier operation is placed out-of-service pursuant to various federal regulations. The bill prohibits an employer from allowing a person to drive a commercial motor vehicle where there is an "out-of-service order".

Your Committee finds that state law must comply with the federal standards in this area or risk losing federal highway funds. The bill subjects an employer who violates this section to a fine of not less than \$2,500 nor more than \$10,000.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2898 and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Chumbley).

SCRep. 2041 Judiciary on S.B. No. 2986

The purpose of the bill is to clarify the civil definition of harassment to prohibit a single act of harassment.

Under current law, the civil definition of harassment requires a course or pattern of conduct which consistently or continually bothers another. The current definition precludes courts from granting civil petitions for relief from harassment when only a single act has been committed.

By comparison, in family court restraining order cases and in the criminal statute, the definition of harassment does not require a course or pattern of conduct. In both of these cases, harassment may be committed by a single act.

Your Committee received testimony in support of the bill from the judiciary. Your Committee believes that harassment may be committed by just one act and believes that the policy in this area should be consistent with the criminal statute and the statute on restraining orders.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2986 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (McCartney, Tam, Anderson).

SCRep. 2042 Judiciary on S.B. No. 2389

The purpose of the bill is to create a new section which makes the transfer of a firearm to a participant in youth gang activity a class C felony, and to provide for the seizure of weapons owned or possessed by a youth gang member for the purpose of committing a crime.

Your Committee reconstructed the bill to address the serious problem with youth gangs and their use of weapons in our state. Our State's public schools have a growing number of youth gang members with an increasing number of weapons being found at school. Firearms and other weapons have no place on school grounds or in the hands of youth gang members.

Your Committee believes the bill will impose strong penalties for an unlawful transfer of a firearm to a youth gang participant. In addition, law enforcement agencies will be able to seize and seek administrative forfeiture of firearms and other deadly or dangerous weapons from youth gang members. Your Committee further believes this bill will enhance the efforts of law enforcement to control the problems associated with youth gangs.

A person commits the offense if the person intentionally transfers any firearm with the knowledge that the firearm will be used to commit a felony by a member of a youth gang which engages in a pattern of youth gang activity; the firearm is used to commit a felony; and the youth gang member has been arrested.

When a law enforcement agency believes that a firearm, ammunition, deadly or dangerous weapon, or switchblade knife has or will be used in committing a crime or that the return of the item would be likely to result in endangering the safety of others, the item may be seized and administratively forfeited pursuant to chapter 712A, Hawaii Revised Statutes.

Your Committee received testimony in support of the bill from the Hawaii State Teachers Association, Honolulu police department, Hawaii Rifle Association and the Hawaii Citizens' Rights Committee.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2389, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2389, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (McCartney, Tam, Anderson).

SCRep. 2043 Judiciary on S.B. No. 2251

The purpose of the bill is to clarify that convictions for abuse of family or household members are not subject to deferred acceptance treatment by the court.

Currently, the courts are not allowing defendants to receive a deferred acceptance of their guilty or no contest plea; however, current law does not expressly state this practice. The bill clearly states the legislative intent that DAGs and DANCs are prohibited in cases involving abuse of family or household members.

Your Committee received testimony in support of the bill from the Honolulu police department, Hawaii State Commission on the Status of Women, Child and Family Service, Hawaii Women's Political Caucus, and the Domestic Violence Clearinghouse and Legal Hotline.

Your Committee finds that abuse of family or household members is a crime which escalates both in the frequency and severity of the offense. To allow DAGs and DANCs would preclude the prosecution from knowing the true, prior history of the offender.

Your Committee amended the bill by specifically adding abuse of family and household members to the section which lists the crimes that are not subject to deferred treatment.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2251, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2251, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (McCartney, Tam, Anderson).

SCRep. 2044 Judiciary on S.B. No. 2869

The purpose of this bill is to improve the efficacy and efficiency of public agency meetings by permitting boards to conduct meetings by videoconference without the adoption of rules.

Your Committee finds that encouraging the use of videoconference technology as a means to conduct business is a practical way to overcome the burdensome transportation costs and other inconveniences inherent to Hawaii's multi-island state. Your Committee believes that expressly authorizing the use of videoconferencing without the subjecting each public board to the lengthy process of adopting rules governing such use will facilitate the practice and enable greater public participation in agency meetings.

Your Committee received testimony in support of this bill from the Office of the Lieutenant Governor and the Commission on the Status of Women.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2869, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Chumbley).

SCRep. 2045 (Joint) Planning, Land and Water Use Management and Ways and Means on S.B. No. 608

The purpose of this bill is to authorize a transfer of public lands for private lands between the State and Campbell Estate in the Kapolei area of Oahu.

The bill provides for a land exchange of approximately 183 acres of public land for a minimum of 183 acres of land currently owned by Campbell Estate. This land exchange would be consistent with the concept of a secondary urban center at Kapolei because the State would acquire lands with better access to the H-1 Freeway, Farrington Highway, and proposed major road improvements in the Kapolei area.

Your Committees find that certain land in Kapolei was deeded by Campbell Estate to the State in 1994. However, since that land exchange, the site of the proposed University of Hawaii West Oahu campus is proposed to be relocated to a much larger area of land presently owned by Campbell Estate above the H-1 freeway.

Your Committees have amended the bill by making technical amendments that correctly identify the parcels of land affected by the exchange.

Your Committees find that it is in the public interest to enter into a land exchange with Campbell Estate involving lands in Kapolei, Oahu.

As affirmed by the records of votes of the members of your Committees on Planning, Land and Water Use Management and Ways and Means that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 608, S.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as S.B. No. 608, S.D. 2.

Signed by the Chairmen on behalf of the Committees.
Ayes, 13. Noes, none. Excused, 4 (Bunda, Fernandes Salling, Matsunaga, Solomon).

SCRep. 2046 Agriculture, Labor, and Employment on S.B. No. 3118

The purpose of this bill is to exclude employees of any private entity contracted to operate the bus and paratransit system of the City and County of Honolulu from inclusion in any appropriate bargaining unit.

Your Committee has amended this bill by adding a new subsection specifying that work customarily performed by employees in bargaining units shall continue to be performed by employees in bargaining units with the exception of private entity employees contracted by the City and County of Honolulu to operate the bus and paratransit system who shall not be in any bargaining unit under chapter 89, Hawaii Revised Statutes.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee 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 placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Solomon).

SCRep. 2047 Judiciary on S.B. No. 2295

The purpose of the bill is to make general revisions to the penal code and related sections.

A Committee to Conduct Comprehensive Review of the Hawaii Penal Code was created to review the penal code and report to the 1995 session of the Eighteenth Legislature. Members of the Committee were appointed by Chief Justice Ronald T.Y. Moon.

The Committee's recommendations were placed within a comprehensive bill that failed to pass during the 1995 session. The present bill was drafted with the intent to eliminate all the controversial sections from the previous bill and to settle upon those sections that were not deemed controversial and were agreed upon by all interested groups.

Your Committee received testimony from the honolulu police department, honolulu and maui prosecuting attorney, office of the public defender, attorney general, department of health, Hawaii State Commission on the Status of Women, The Sex Abuse Treatment Center and several individuals. As the bill contained many sections covering the penal code and related provisions, the testimony in support or against the various sections of the bill was mixed.

The majority of the sections within the bill met with strong disapproval from various groups. According to the intent of Your Committee to remove the controversial sections, the sections that met with strong disapproval or controversy were deleted in their entirety from the bill.

The bill was amended primarily to deal with what is known as the "Maui exception" where the prohibited conduct of selling, bartering, or distributing small amounts of marijuana and small amounts of Schedule V substances were both placed within the prohibitions of the offenses of promoting detrimental drugs in the first degree, a class C felony, and promoting detrimental drugs in the second degree, a misdemeanor.

Since a conflict between these two sections exists, Maui county is presently charging all of these offenses as misdemeanors. The bill was amended by removing the conflicting language from the offense of promoting detrimental drugs in the first degree.

Other sections which were retained increased the valuation of property necessary for theft in the second degree from \$300 to \$500. For theft in the third degree, the valuation for all types of property or services was set at \$100.

The intentional discharging of a firearm in a populated area was made prima facie evidence of reckless endangering in the second degree. The sentencing provisions for the carrying or use of a firearm in the commission of a felony were revised. The conditions of probation were revised to include curfews, submitting to an electronic monitoring device and ordering the defendant to receive and sign a written acknowledgement of the receipt of the written conditions and requirements of probation. In petty misdemeanors cases, allowing five days in jail as a condition of probation was added.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 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 the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Chumbley, Anderson).

SCRep. 2048 (Joint) Agriculture, Labor, and Employment and Planning, Land and Water Use Management on S.B. No. 3170

The purpose of this bill is to extend the boundaries of the Waimanalo Agricultural Park.

According to testimony presented to your Committees, the purpose for extending the boundaries of Waimanalo Agricultural Park is to include certain revocable permittees who are farming on nonagriculturally-zoned land within the Waimanalo area and who as such, do not qualify for long-term leases under the provisions of Act 237, Session Laws of Hawaii 1988 (Act 237).

Your Committees find that Act 237 authorized the Department of Land and Natural Resources to enter into lease negotiations with revocable permittees on state-owned agricultural lands so that the permittees would be able to establish long-term land tenure, thereby allowing the permittees to secure financing for farm productivity enhancement.

However, Act 237 did not extend the opportunity to enter into long-term leases with the Department of Land and Natural Resources to those Waimanalo permittees who, through no fault of their own, were farming on nonagriculturally-

zoned land. Additionally, certain permittees who did possess a revocable permit for agriculturally-zoned land and who applied for long-term leases under Act 237, were subsequently denied approval due to filing discrepancies.

Your Committees believe that the exclusion of these permittees was not part of the intent of Act 237 and that these permittees should be afforded the opportunity to obtain long-term leases from the State.

Accordingly, your Committees have amended the bill by deleting its substance and inserting therefor language that authorizes the Department of Land and Natural Resources to negotiate and enter into long-term leases with revocable permittees in the Waimanalo area who were deemed ineligible to obtain a long-term lease under Act 237. The bill also directs the Department of Land and Natural Resources to cooperate with land use reclassification activities initiated by those permittees on nonagriculturally-zoned lands to facilitate the conversion of their lands from nonagricultural to agricultural use.

Your Committees believe that the amendments made to the bill:

- (1) More efficiently address the concerns of the permittees;
- (2) Are in the public interest to assist the permittees who depend on farming the state land for a livelihood; and
- (3) Are consistent with the objectives of the Hawaii State Plan.

Your Committees also find that the State would realize greater returns from the long-term disposition of lands now under permit.

As affirmed by the records of votes of the members of your Committees on Agriculture, Labor, and Employment and Planning, Land and Water Use Management that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 3170, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 3170, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairmen on behalf of the Committees.
Ayes, 7. Noes, none. Excused, 4 (Holt, Matsunaga, Tanaka, Taniguchi).

SCRep. 2049 Communications and Public Utilities on S.B. No. 2405

The purpose of this bill is to establish a program to provide net energy metering for eligible customer-generators.

Your Committee finds that over ten other states, including California, Connecticut, Maine, Massachusetts, Minnesota, New Hampshire, North Dakota, Oklahoma, Rhode Island, Texas, Vermont and Wisconsin have successfully implemented similar programs as a means of encouraging private investment in renewable energy resources.

Your Committee believes that a net energy metering program has the potential to stimulate economic growth in the State and promote continued investment in and diversification of the State's vital energy resource mix.

While the present draft of this measure would not implement what is typically viewed as "net energy metering" in other jurisdictions, your Committee believes it is important to continue discussion on the best ways to effectuate such a program in Hawaii.

The Hawaii Renewable Energy Alliance and Department of Business, Economic Development, and Tourism specifically expressed concerns regarding the proposed use of two meters to measure the customer-generator's net energy in S.D. 1. The use of a single, non-demand, non-time-differentiated meter is, according to their analysis, sufficient to measure the net energy. The use of the second meter would result in an estimated increase of \$1,500 to \$2,000 in installed system costs and additional costs for the utility to administer individual accounts.

As affirmed by the record of votes of the members of your Committee on Communications and Public Utilities that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2405, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Ihara, Matsuura, Liu).

SCRep. 2050 (Joint) Communications and Public Utilities, Consumer Protection and Ways and Means on S.B. No. 3041

The purpose of this bill is to require notice of public hearings to be published in a newspaper printed and issued at least once a week, rather than twice weekly under current law, in the county affected by the proposed action. It also provides that when notice is required to be published in a newspaper of general circulation, the newspaper shall have a circulation of at least 250,000 and be issued at least once a week.

Your Committees find that numerous state laws require public notice to be given exclusively by publication in a newspaper of general statewide or countywide circulation.

Your Committees further find that in view of the vast array of alternative communications media now readily available, such as broadcast, cable, and computer-based media, the efficiency and cost-effectiveness of newspaper publication of legal notices as the sole means of public notice is questionable. The cost, alone, to the State of newspaper publication of legal notices exceeded \$3 million in fiscal year 1994-1995, and is expected to continue to rise.

Your Committees recognize that in this age of electronic information and commerce, many people who used to rely solely on newspapers for information may now obtain their news from television, radio, and on-line computer networks.

State agencies also recognize the benefits of disseminating public information via alternative forms of media. For example, the Department of Budget and Finance and other relevant agencies have recently implemented an operational prototype service for all executive branch agencies to publish bid solicitations on Hawaii FYI and the Internet. This pilot project includes a study of the impact of publishing solicitation notices electronically for possible replacement of newspaper publication.

While traditional newspaper publication may still be a practical means of delivering legal notification in many instances, your Committees believe that the effectiveness of the present system can be significantly enhanced by requiring newspaper publication to be supplemented by electronic on-line notification.

Your Committees have amended this bill by deleting all existing language and substituting language requiring the department of accounting and general services to put out for bid and award a contract for the exclusive publication and electronic posting of all state legal notices. Under the amended bill, the contract can be awarded only to a qualified newspaper consortium having aggregate print and electronic network capabilities to achieve effective statewide distribution of legal notices. The winning qualified bidder would be designated the "official state newspaper consortium" and be required to publish all state legal notices once in the consortium's print media and continuously on-line by means of electronic media, such as Hawaii FYI or the Internet.

Your Committees acknowledge the concern expressed over the ability of neighbor island publications to effectively participate in any of the competitive consortia being established and believe that further discussion of this issue can strengthen the means of such participation.

As affirmed by the records of votes of the members of your Committees on Communications and Public Utilities and Consumer Protection and Ways and Means that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 3041, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 3041, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairmen on behalf of the Committees.

Ayes, 13. Noes, none. Excused, 7 (Aki, Bunda, Fernandes Salling, Ikeda, Solomon, Tanaka, Anderson).

SCRep. 2051 Judiciary on S.B. No. 2263

The purpose of this bill is to adopt the Uniform Foreign Money-Judgments Recognition Act.

Your Committee finds that this uniform act, which was promulgated in 1962 by the Commissioners on Uniform State Laws, has already been adopted by twenty-five other states and the Virgin Islands of the United States.

Your Committee agrees with the intent of this bill, which establishes a process for the recognition and collection of money judgments obtained outside of the United States, including safeguards to ensure that judgments obtained in foreign courts that do not meet the basic requirements of fairness and due process are not recognized or enforced. Your Committee finds that this bill will promote fair play among those engaged in international commerce, and will further help to ensure that Hawaii continues to play a central role with respect to commerce in the Asian-Pacific region.

Upon further review, your Committee has amended the definition of "foreign state" in section -2 of the new chapter added by section 1 of the bill by deleting the references to the Panama Canal Zone, the Trust Territory of the Pacific Islands, and the Ryukyu Islands. The United Nations Trust Territory ceased to exist with the entry into effect of the Compact of Free Association with the last such territory, the Republic of Palau (Belau), on October 1, 1994. Moreover, if judgments from the Canal Zone or the Ryukyu Islands are required to be given special status by virtue of treaties with the United States, Hawaii's courts would be required to honor those treaty commitments, notwithstanding this bill. Your Committee's amendment to this definition is similar to amendments made by Alaska, Connecticut, Idaho, Virginia, and the Virgin Islands of the United States.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 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 the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Chumbley, Tam, Anderson).

SCRep. 2052 Judiciary on S.B. No. 2479

The purpose of the bill is to remove "trespass" as a necessary element in the offense of sexual assault in the fourth degree.

Under current law, sexual assault in the fourth degree is committed when a "...person knowingly trespasses on property for the purpose of subjecting another person to surreptitious surveillance for the sexual gratification of the actor".

The current requirement of a trespass provides an unnecessary and inconsistent element of proof for what is purely a sex offense and distracts from the nature of the offense.

Your Committee believes that the other current elements such as "surreptitious surveillance" and "for the sexual gratification of the actor" provide the basic requisite elements of proof for this type of offense. Whether a person trespasses or not is immaterial to the commission of this offense.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2479 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (McCartney, Tam, Anderson).

SCRep. 2053 Judiciary on S.B. No. 2548

The intent of this bill is to amend section 520-2, Hawaii Revised Statutes, by clarifying the definition of "recreational purpose" to include the access to lands used for recreational activities.

Your Committee received testimony in favor of the bill from the Board of Land and Natural Resources, the City and County of Honolulu Department of Parks and Recreation, the Kauai County Council, Gentry Homes, Kamehameha Schools Bernice Pauahi Bishop Estate, the Land Use Research Foundation of Hawaii, and the Waiālae Iki V Community Association.

Your Committee believes that providing liability protection to private landowners whose property must be accessed for recreational uses such as hiking will increase recreational use opportunities. Landowners may be more willing to provide such access if the liability issues are addressed, as this bill seeks to do.

Upon further consideration, your Committee amended the definition of "recreational purpose" by including access to lands used for a recreational activities, if the access is required by county or state government.

It particularly stands to reason that if government is forcing the landowner to open land for recreational use the private landowner should be protected from liability for doing so.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 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 the Chairman on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 2 (Chumbley, Anderson).

SCRep. 2054 Judiciary on S.B. No. 2718

The purpose of this bill to require the Department of Human Services to release the names and addresses of certified foster parents and approved relative caregivers to organizations or government entities that are of benefit to the foster parents or relative caregivers or to the foster care program.

Your Committee is aware that current law does not provide for the release of the names of foster parents which has had the unintended effect of fragmenting the provision of services to foster parents themselves. Your Committee finds that the provisions of this bill will enable foster parents to communicate among themselves through organizations and government entities that are of benefit to them without unduly compromising their privacy.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2718 and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.

Ayes, 6. Noes, none. Excused, 1 (Chumbley).

SCRep. 2055 Judiciary on S.B. No. 2773

The purpose of this bill is to prohibit a pharmacist from substituting an equivalent (generic) drug product for any prescription for an anti-epileptic drug, except upon the consent of the practitioner and the patient or the patients' parent or guardian.

In addition, this bill:

- (1) Makes it a misdemeanor to violate the drug product selection law (chapter 328, part VI, Hawaii Revised Statutes);
- (2) Imposes an administrative penalty of not more than \$10,000 for each separate violation of the drug product selection law;
- (3) Allows the Director of Health to institute a civil action in any court of competent jurisdiction for injunctive relief to prevent any violation of the drug product selection law;
- (4) Replaces the term "dispenser" with the term "pharmacist", replaces the term "prescriber" with the term "practitioner", and defines the terms "pharmacist" and "practitioner", for the purposes of the drug product selection law;
- (5) Allows a practitioner to handwrite or verbally order the instructions "brand medically necessary", "dispense as written", "brand", or "brand only" (in addition to "do not substitute") to prevent the substitution of an equivalent (generic) drug product for a prescribed (brand name) drug product; and

- (6) Requires a pharmacist to note the practitioner's instructions on the prescription record required to be maintained under the Hawaii Food, Drug, and Cosmetic Act (chapter 328, part I, Hawaii Revised Statutes), and gives the Department of Health all the powers conferred upon it under the Hawaii Food, Drug, and Cosmetic Act to enforce the drug product selection law.

Your Committee has amended this bill by:

- (1) Adding four provisions to make conforming amendments to sections 328-93, 328-94, 328-96(d), and 328-98, Hawaii Revised Statutes; and
- (2) Making technical, nonsubstantive amendments for purposes of style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2773, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2773, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Anderson).

SCRep. 2056 Judiciary on S.B. No. 2871

The purpose of this bill is to amend the election laws to clarify the requirements relating to candidate nomination papers.

Specifically, the amendments more clearly describe the contents of nomination papers and the kinds of information which shall be included on a candidate's nomination papers. Moreover, this bill describes the manner in which a signer of a nomination paper may withdraw that voter's signature, and how a political party may object to a candidate's nomination papers.

Your Committee received testimony from the Chief Election Officer who recommended certain clarifying language be added to prevent future confusion or conflict. Your Committee, with the assistance and concurrence of the Chief Election Officer has therefore amended this bill in the following ways:

- (1) Specified that a signer of a candidate's nomination papers may have that signature removed from the candidate's nomination paper upon written notice to the chief election officer or clerk (if a county office) and receipt of that withdrawal request by 4:30 p.m. of the fourth business day prior to the filing deadline. These four days would give the chief election officer time to notify the candidate.
- (2) Required that the candidate be given written notice within twenty-four hours of the potential removal of a voter's name from the candidate's nomination papers. This would give the candidate some time to gather more signatures if it became necessary to do so.
- (3) Allowed a political party to object to a candidate's nomination paper if the candidate is not a member of the political party. This change corrects the earlier more vague language and removes the requirement that candidate provide proof of party membership (such as a party card) at the time of filing.
- (4) Disallowed the acceptance of nomination papers that contain alterations to candidate information, party affiliation, and the like.
- (5) Required that the nomination paper contain the candidate's residence address and county and that the candidate be a resident of the district at the time of filing the nomination paper, for the office for which the candidate is running.

Your Committee finds that these changes will reduce the likelihood that questions and challenges will be made to the election law provisions relating to a candidate's nomination papers.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 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 the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Chumbley, Anderson).

SCRep. 2057 Judiciary on S.B. No. 2878

The purpose of this bill is to require that a constitutional amendment proposed by the legislature include a summary of the proposed constitutional amendment, which the chief elections office may use in educating the voters about the effect of ratification.

Your Committee finds that at present, the preparation of summaries pertaining to the constitutional amendments has been done on an ad hoc, informal basis. This information is important and your Committee finds that it should continue to be provided to the public. As the election laws are being transferred over to the chief of elections, your Committee finds that it is appropriate to resolve this issue and formally assign this task to a specified agency.

Your Committee has amended the bill by:

- (1) Deleting the requirement that the summary be included in the bill proposing the amendment, and instead requiring the chief elections officer to coordinate the preparation of voter education material with the Legislative Reference Bureau, and requiring the Bureau to be responsible for the interpretation of the bill;
- (2) Restoring the original language in the statute stating that the ballot may, rather than shall, include proposed amendments; and
- (3) Making technical, nonsubstantive format changes.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2878, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2878, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (McCartney, Tam, Anderson).

SCRep. 2058 Judiciary on S.B. No. 2897

The purpose of the bill is to reduce to the level of violations what are currently considered parking and equipment offenses which occur outside the operational area of a public airport.

Most traffic and parking offenses were decriminalized; however, some were inadvertently left outside the scope of the movement toward decriminalization. The bill keeps current penalties intact for offenses occurring within the operational area of a public airport, but reduces to the level of violations parking and equipment offenses outside the operational area.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2897, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Chumbley).

SCRep. 2059 Judiciary on S.B. No. 2992

The purpose of the bill is to reduce to the level of violations what are now considered traffic and parking offenses in Aloha Stadium, and to remove from the current penalties the provision for possible imprisonment for up to thirty days.

Most traffic and parking offenses were decriminalized; however, some were inadvertently left outside the scope of the movement toward decriminalization. The bill reduces what are now considered parking offenses to the status of violations which are now subject to fines of \$500 or less.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2992 and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Chumbley).

SCRep. 2060 (Majority) Judiciary on S.B. No. 3113

The purpose of this bill is to provide equal protection of the law to same-gender couples.

The State of Hawaii is a culturally diverse and pluralistic society--a society that is the envy of the world. Our collective experience has sensitized us to civil rights and their great importance. Despite the equal protection clause of the United States Constitution, some of Hawaii's citizens were unfortunately taken against their will to internment camps at the beginning of World War II, while others were displaced from their homes or discharged from military service solely on the basis of ancestry.

The State of Hawaii has a rich history in the field of civil rights. Hawaii was the first state in the nation to ratify the proposed equal rights amendment for women in our country. Our anti-discrimination laws are enforced by one of the most vigorous mechanisms of any state in the nation through our Hawaii Civil Rights Commission. This rich history and tradition of tolerance of other people's rights and our collective sensitivity to civil rights has been severely challenged by the Hawaii Supreme Court.

Extensive testimony was heard on this issue. The members of your Committee were presented with conflicting testimony as to whether the right to marry is a civil right. Constitutional scholars tell us that "civil rights" are those rights that individuals have in relationship to their government. Your Committee finds that for more than fifty years, the United States Supreme Court has recognized marriage as a basic "civil right". *Skinner v. Oklahoma ex rel. Williamson*, 316 U.S. 535 (1942). It said so again in *Zablocki v. Redhail*, 434 U.S. 374 (1978) a twenty year old case involving a statute passed by the Wisconsin legislature.

Your Committee is also mindful of the full faith and credit clause of the United States Constitution, and is also aware of several states that are taking action to refuse to recognize Hawaii marriages if same-gender marriage is permitted by law. Your Committee is concerned about the harmful legal consequences that may affect all marriages if same-gender

marriage is adopted. The Committee finds that the necessary legislative action needs to be more narrowly drawn in order to avoid this "legal minefield."

This bill establishes a domestic partnership law that recognizes same-gender relationships and bestows the rights and obligations that are provided in a spousal relationship. Your Committee has been made fully aware that many of our churches and religious groups condemn same-gender relationships. There is nothing in this bill to require any church or religious group to recognize or solemnize same-gender relationships. Likewise, the constitutional principle of the separation of church and state prevents religious beliefs from being enforced through state institutions.

Your Committee has amended this bill by requiring a twelve month residency period, and providing that domestic partners do not gain parental rights to a child except through adoption. While your Committee believes this bill will meet the standards required of the equal protection clause of the Hawaii State Constitution, your Committee has also amended this bill to repeal the Act if the Hawaii Supreme Court issues a decision requiring the State of Hawaii to apply its marriage laws to same-gender couples.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3113, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3113, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, 2 (Matsuura, Anderson). Excused, none.

SCRep. 2061 Judiciary on S.B. No. 3115

The purpose of the bill is to authorize phlebotomists to draw blood for alcohol or drug testing, if the phlebotomist is duly qualified by the director of a clinical laboratory licensed by the State.

Your Committee believes phlebotomists by training are qualified to take these blood samples and the drawing of blood for an alcohol or drug test is a relatively simple procedure. The omission of phlebotomists from Act 197, Session Laws 1995, appears to have been an oversight.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3115, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Chumbley).

SCRep. 2062 Judiciary on S.B. No. 3134

The purpose of the bill is to create a class C felony for theft of utility service.

The penal code currently does not adequately regulate in this area. The current theft statutes do not specifically provide for thefts of utility services. Current theft of utility service cases are prosecuted under sections not suited to this type of theft with current prosecutions producing unsatisfactory results. Your Committee finds that a new type of theft needs to be established to deter this type of crime.

Thefts of utility service deprive the utility companies of significant revenue and often place the offender and utility service persons in grave physical danger. Customers who properly subscribe to utility service in the area of the source of the theft face potential loss of service due to the actions of a few persons who illegally redirect utility service.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3134, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Chumbley).

SCRep. 2063 Consumer Protection on S.B. No. 2125

The purpose of this bill is to require motorcycle drivers to pass a motorcycle education course approved by the Motorcycle Safety Foundation (MSF) rather than the Department of Transportation (DOT) in order to obtain liability insurance.

Current law requires that a motorcycle education course be approved by the DOT. The DOT-approved course follows standards of the MSF and is administered by the University of Hawaii. Therefore, this bill is in effect a restatement of existing practice.

Your Committee has amended this bill by also allowing enrollment in an approved course as a means of satisfying the liability insurance requirement and providing that the course be approved by the DOT or by any branch of the armed services of the United States rather than the MSF.

Your Committee's concern is for military personnel. Testimony received by your Committee indicated that an identical motorcycle education course is mandatory on military bases for military personnel driving motorcycles on base. Military personnel must show proof of enrollment in the course to obtain the insurance. Current law has been interpreted by the DOT as qualifying only the civilian course, which has meant that military personnel must now enroll in the civilian

course when the military course is identical. Your Committee's amendment would remedy this predicament without modification or compromise to the requirements.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee 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 placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Aki, Ige, Iwase).

SCRep. 2064 Consumer Protection on S.B. No. 2128

The purpose of this bill is to facilitate the incorporation of business development corporations under chapter 420, Hawaii Revised Statutes.

This bill would make it easier to form business development corporations by reducing the required number of incorporators from not less than five to two and reducing the required number of those incorporators who are residents of Hawaii from a majority to at least one.

Business development corporations are for the purpose of promoting, developing, and advancing the prosperity and economic welfare of the Pacific Islands.

The problem under present law has been logistical in that the statutorily required number of incorporators and resident incorporators is difficult to satisfy, for the reason that many potential business development corporations tend to be Hawaii companies and tend to be small businesses. The effect of this bill would be to increase the number of business development corporations in Hawaii and thus the economic development of the Pacific region, and ultimately benefit Hawaii.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2128 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Aki, Ige, Iwase).

SCRep. 2065 Consumer Protection on S.B. No. 2280

The purposes of this bill are to prohibit the sale of cigarettes or other tobacco products by mobile food vendors, and to add the definition of "sell" or "sale" as relating to tobacco product sales by mobile food vendors.

Your Committee has amended this bill by:

- (1) Deleting the expanded prohibition of mobile food vendors selling tobacco products other than cigarettes;
- (2) Adding a prohibition that mobile food vendors operating within one thousand feet of any public or private secondary school may not sell cigarettes; and
- (3) Making other nonsubstantive, technical amendments for clarity.

Your Committee finds that tobacco use is the leading cause of preventable illness and death in the United States.

Your Committee also finds that cigarette smoking among America's youth is on the rise after a period of steady decline. About three thousand American minors take up the smoking habit each day. According to data from the Department of Education 22 per cent of Hawaii's high school seniors were regular smokers in 1980. Today 29.4 per cent of high school seniors are regular smokers.

Your Committee further finds that school administrators and parents have long complained to the Department of Health that mobile food vendors have been a troublesome source of the illegal sale of cigarettes to minors.

Your Committee further finds that these mobile food vendors focus their business around schools, parks, and neighborhoods at times when large groups of unsupervised young individuals congregate.

Your Committee also notes that many mobile food vendors cater to adult customers who purchase cigarettes from mobile food vendors out of convenience. The salespeople on these mobile food vendors are trained and know that the sale of cigarettes to minors is unlawful and could be considered just cause for immediate termination of employment.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2280, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2280, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Aki).

SCRep. 2066 Consumer Protection on S.B. No. 2439

The purpose of this bill is to clarify the law relating to refunds and exchanges. Specifically, the bill amends section 481B-5, Hawaii Revised Statutes (HRS), by:

- (1) Retitling the section to read "Return of merchandise for refund, credit, or exchanges";
- (2) Adding new definitions pertaining to the return of merchandise; and
- (3) Clarifying the existing statute regarding the return of merchandise for refund, credit, or exchanges.

Your Committee has amended this bill by:

- (1) Amending the definitions for "Ancillary charges" and "Full amount of payment";
- (2) Changing the defined term of "Merchant credit" to "Merchandise credit";
- (3) Allowing a merchant to recover any ancillary charges associated with the return of goods from a customer; and
- (4) Making a technical, nonsubstantive change.

Your Committee finds that problems relating to refunds and exchanges constitute one of the largest areas of complaint in the Office of Consumer Protection.

Your Committee further finds that section 481B-5, HRS, currently contains ambiguities and does not adequately address certain problems relating to the return of merchandise. These problems will be addressed by this bill as amended.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2439, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2439, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Aki).

SCRep. 2067 Consumer Protection on S.B. No. 2491

The purpose of this bill is to allow the Insurance Commissioner to issue limited credit insurance licenses to persons who sell credit life, credit accident and health, credit involuntary unemployment, and credit property insurance.

Your Committee finds that S.B. No. 959, covering the same subject, passed during the 1995 Legislative Session, but was vetoed by the Governor due to concerns raised by the Insurance Commissioner.

Your Committee further finds that the Insurance Commissioner's concerns have been met by revised language in the bill requiring a precicensing examination by persons selling these kinds of insurance.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2491 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Aki).

SCRep. 2068 Consumer Protection on S.B. No. 2503

The purpose of this bill is to allow motor vehicle rental companies to offer the lessee the option of pre-purchasing fuel from the company at the average of the prevailing retail price or to charge the lessee a refueling charge under certain circumstances.

Your Committee finds that pre-purchasing fuel from the rental company is an option extended to lessees in all states but Hawaii. Your Committee further finds that this option is a popular alternative used by motor vehicle lessees and an additional service that the industry is willing to provide. Your Committee further notes that this bill responds to a concern expressed by the governor in his veto message of House Bill No. 605, which was enacted by the legislature during the regular session of 1995, by correcting a technical error regarding the formula to be used by the lessor in determining the prevailing retail price to charge for refueling.

Your Committee has amended this measure by:

- (1) Deleting section 1 of the bill;
- (2) Adding a provision prohibiting the payment of commissions for the sale of fuel purchase options; and
- (3) Making technical, nonsubstantive changes for the purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2503, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2503, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Aki).

SCRep. 2069 Consumer Protection on S.B. No. 2724

The purpose of this bill is to allow interstate branching of Hawaii state chartered banks with national and international banks by:

- (1) Adding two new articles to chapter 412, Hawaii Revised Statutes (HRS), relating to interstate and international branching and bank mergers;
- (2) Statutorily establishing guidelines for licensing, regulation, and supervision of interstate and foreign branches and offices;
- (3) Amending the titles in article 5A of chapter 412, HRS, to reflect international branching; and
- (4) Repealing part III of article 5A, chapter 412, HRS, which related to foreign banks operating in Hawaii.

Your Committee has amended this bill by prohibiting de novo branching (opening a new branch) by out-of-state banks and partial acquisition of branches (purchasing single branches) for a specified number of years. On the other hand, any Hawaii state banks, with the approval of the commissioner may establish an operate a de novo branch or acquire and operate a branch in another state without this prohibition.

Further, your Committee requires that only banks that have been in operation for at least five years (five year aging requirement) may be acquired in whole bank acquisitions. A sunset clause has been added relating to these restrictions.

Your Committee finds that the Riegle-Neal Interstate Banking and Branching Efficiency Act was passed in 1994, by the United States Congress. This Act provides that individual states may enact legislation permitting interstate banking.

Your Committee has made additional nonsubstantive, technical amendments for clarity.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2724, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2724, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Aki).

SCRep. 2070 Consumer Protection on S.B. No. 2729

The purpose of this bill is to repeal certain provisions of the charitable solicitations law.

This administration bill amends chapter 467B, Hawaii Revised Statutes (HRS), relating to solicitation of funds from the public by charitable organizations, professional fund-raising counsel, and professional solicitors. This bill would repeal:

- (1) The discretion of the Director of Commerce and Consumer Affairs (Director) to accept reciprocal agreements with another state in lieu of an out-of-state charitable organization, professional fund-raising counsel, or professional solicitor having to file similar information contained therein;
- (2) The discretion of the Director to grant exemption from the filing of annual statements for charitable organizations organized in another state whose funds are derived principally from sources outside of Hawaii and which have been granted similar exemption in the state in which they are organized if that state has laws similar to chapter 467B, HRS;
- (3) Section 467B-2, HRS, relating to filing requirements for charitable organizations; and
- (4) Section 467B-11, HRS, relating to exemptions for charitable organizations as to filing requirements.

According to testimony of the Department of Commerce and Consumer Affairs (DCCA), many organizations still do not understand the requirements or necessity for registration required by chapter 467B, HRS, enacted in 1993. Currently, there are 2,200 registrations on file, representing a very small percentage of the estimated number of nonprofit organizations engaging in activities required to be registered. As a result, the DCCA is utilizing disproportionate resources to track relatively few organizations, including the numerous requests and inquiries handled daily for this purpose. The filings raise approximately \$22,000 in fees for the DCCA, which does not cover their costs.

The DCCA has met with the charitable solicitation advisory panel that created the original legislation, and the panel recommended that registration requirement be dropped and replaced by educating the public.

Your Committee has amended this bill to retain section 467B-11, HRS, relating to exemptions from filing and to amend that section to pertain to charitable organizations that receive less than an unspecified gross amount (repealing the current \$4,000). Your Committee has also made technical, nonsubstantive amendments for proper statutory drafting style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee 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 the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Aki).

SCRep. 2071 Consumer Protection on S.B. No. 2740

The purpose of this bill is to make various amendments to the statute relating to the Office of Consumer Protection (OCP) of the Department of Commerce and Consumer Affairs.

Specifically, this bill:

- (1) Allows OCP to contract with any nonprofit organization, not only those that are social service, trade, professional or business organizations;
- (2) Requires that reimbursements to financial institutions served subpoenas by OCP be at the same rate paid by the Department of the Attorney General;
- (3) Permits employees of OCP to engage in undercover investigations;
- (4) Removes references to the Department of Commerce and Consumer Affairs and OCP in designating the director as the one authorized to bring court proceedings to enjoin violations of the consumer protection statutes; and
- (5) Repeals the consumer advisory council.

The major changes in this administration bill is to clarify the law in response to an opinion of the Office of Disciplinary Counsel (8/28/95) which stated that OCP attorneys would risk violations of the Hawaii Rules of Professional Conduct if they obtained information through their investigators in an undercover investigation, "to the extent that express statutory or judicial authority is lacking." This bill would fill that statutory void.

Your Committee finds that undercover investigations are a necessary and integral part of consumer protection enforcement. Cases cannot be based solely upon subpoenaed information or victim testimony. Investigators presently lack statutory authorization to include posing as a prospective customer in their investigations. Yet, certain well-publicized schemes and frauds cannot be effectively prosecuted without using undercover techniques.

As to the repeal of the Consumer Advisor Council, your Committee finds that the council has been inactive for a number of years, due in large part to the fact that OCP actually draws its advice from the public at large rather than from any panel.

As to reimbursement to financial institutions for fees for services incurred in the process of responding to OCP subpoenas, your Committee finds that the OCP is currently being charged more than the Attorney General for labor and copying. This bill would limit those charges to those charged to the Attorney General.

Upon consideration, your Committee has eliminated the ability of OCP to contract with nonprofit organizations to perform the functions of OCP as it believes that governmental functions of OCP should not be contracted away to the private sector. Your Committee also has amended this bill to make technical amendments for style and clarity and to reflect the proper version of certain statutes amended by the bill.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2740, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2740, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Aki).

SCRep. 2072 Consumer Protection on S.B. No. 3159

The purpose of this bill is to allow banks to underwrite and sell insurance policies, annuities, and securities.

Current law prohibits banks from engaging in insurance and securities businesses. This bill would allow them to do so, as follows:

- (1) As to insurance:
 - (A) A bank may conduct all activities incident to making contracts of insurance and selling insurance, including acting as general agent, subagent, broker, or solicitor, without restriction as to the type of policies, and may sell annuities; provided that the insurance activities shall be governed by the insurance code (chapter 431, Hawaii Revised Statutes);
 - (B) Insurance and annuities may be sold by banks in the State or any place outside the State, including any other state, dependency, insular possession of the United States, or any foreign country; provided that the

activities which are not addressed by the State's laws or rules shall be governed by the laws and rules of those jurisdictions; and

- (C) The Commissioner of Financial Institutions (Commissioner) shall adopt rules relating to the selling of insurance and annuities by banks.
- (2) As to securities:
- (A) A bank may engage in the sale or purchase of any security as defined in chapter 485, Hawaii Revised Statutes, relating to the Uniform Securities Act on behalf of customers, and may become engaged as investment companies, in providing portfolio advice to customers, and in providing investment and financial advice to government agencies;
- (B) A bank may operate a discount or full service brokerage and serve as dealer-manager and financial advisor (including specified incidental services) to corporations, partnerships, and other persons;
- (C) Securities operations shall be governed by chapter 485, Hawaii Revised Statutes; and
- (D) Securities operations may be conducted within or outside the State, or both, with the limitation that operations outside of the State shall be governed by applicable provisions of those other jurisdictions to the extent that the matters are not addressed by the State's laws or rules.

This bill also makes various conforming statutory amendments.

Your Committee finds that the current trend in banking services is to allow banks to engage in related financial services such as insurance, securities, and investment advising, so that banks become a one-stop shop for the customer who wants to bank, buy insurance, invest in stocks, and obtain investment advice. Banks are fast becoming a financial all-in-one service for customers.

Your Committee received testimony from the Commissioner who is maintaining a neutral position on this bill, which is a matter of legislative policy and prerogative. The Insurance Commissioner submitted supporting testimony, indicating that this bill would enhance the competitive alternatives for the sale and purchase of insurance.

Your Committee has amended this bill as follows:

- (1) Deleting the requirement that the Commissioner adopt rules to regulate the new powers granted to banks and substituting procedural requirements for a bank to obtain prior approval from the Commissioner;
- (2) Adding a new section allowing banks to engage in insurance underwriting and setting requirements to do so;
- (3) Clarifying the information that a bank must include on its application to the Commissioner to sell insurance or securities and allowing the Commissioner to impose conditions to protect the bank, the customers, and the public interest if sales are allowed;
- (4) Requiring the bank to obtain further approvals under the insurance law or the securities law, after approval by the Commissioner to engage in the sales of either;
- (5) Directing the Revisor of Statutes to make appropriate revisions to section numbers in codifying this Act; and
- (6) Making technical, nonsubstantive amendments for clarity and proper statutory drafting style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3159, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3159, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Aki).

SCRep. 2073 Consumer Protection on S.B. No. 3205

The purpose of this bill is to expand the scope of current law regulating office machine products dealerships to include oil products dealerships. It also amends the definition of "dealership" to mean an agreement under which the dealer can sell products on behalf of the distributor at wholesale or retail, rather than to consumers or other end-users as under current law. This bill does not apply to manufacturers of motor vehicle fuel.

Your Committee finds that this bill will protect Hawaii's independent motor oil and lubricant products distributorships, which invest a considerable amount of time and money building up the name brand products they sell in this State. Without the same protection that is currently afforded to office machine products dealerships under state law, oil products dealerships are potentially vulnerable to revocation, cancellation, or discontinuance by manufacturers at any time without cause or warning.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3205 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Aki, Ige, Iwase).

SCRep. 2074 Consumer Protection on S.B. No. 3259

The purpose of this bill is to provide certain protections regarding health care coverage and appropriate treatments thereunder to consumers of health care services.

Your Committee finds that due to the adoption of managed care by many health care plans, concerns have been raised about how determinations should be made about medically necessary treatments. Your Committee further finds that health care practitioners have been faced with ethical dilemmas when managed care plans potentially bind the practitioner's reimbursement to the medical care provided, which can result in the erosion of the practitioner/patient relationship. This bill will address these problems.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3259, and recommends that it pass Second Reading, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Aki).

SCRep. 2075 (Joint) Transportation and Government Affairs and Ways and Means on S.B. No. 2333

The purpose of this bill is to implement the recommendations contained in the Legislative Auditor's January 1996 audit of the administration of the purchase of services contracts under chapter 42D, Hawaii Revised Statutes (HRS). In particular the the bill:

- (1) Amends chapter 42D, HRS, to apply only to grants and subsidies, to remove references to purchase of services, and to eliminate the executive coordinating council and the advisory council;
- (2) Amends chapter 103D, HRS, to apply to purchase of service contracts;
- (3) Amends Act 194, Session Laws of Hawaii 1992, to clarify the sunset provisions affecting chapter 42D, HRS; and
- (4) Makes conforming amendments to the HRS.

Testimony in support of the bill was submitted by the Commission on Persons With Disabilities and the Legislative Auditor. Testimony in opposition to the bill was submitted by the Department of Budget and Finance, the Department of Accounting and General Services, the Department of Human Services, Hawaii Youth Services Network, and the West Oahu Employment Corporation.

Your Committees learned that although there is great consensus that the present purchase of service process under chapter 42D, HRS, is not working, there is no consensus as to how to improve the system. There was great concern expressed that the transfer of purchase of services to chapter 103D, HRS, was inappropriate because, while it would give the State the advantage of centralized contracting, the procedures would not have the flexibility to deal with the types of services contracted for. Standardized specifications cannot be applied to most human services as they can with goods and services.

Your Committees amended the bill by deleting its provisions and replacing them with provisions to:

- (1) Clarify the sunset provision under Act 194, Session Laws of Hawaii 1992, and to extend chapter 42D, HRS, for two more years until July 1, 1998, at which time the responsibility for purchase of services contracts will be transferred to the State Procurement Office;
- (2) Provide that during the two-year transition period the Administrator of the State Procurement Office, in consultation with providers and state departments, shall develop a new procedure for processing purchase of service contracts which will utilize advisory council or councils;
- (3) Require the Administrator to report to the Legislature after the end of the first transition year; and
- (4) Make necessary technical amendments.

As affirmed by the records of votes of the members of your Committees on Transportation and Government Affairs and Ways and Means that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2333, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2333, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairmen on behalf of the Committees.
Ayes, 10. Noes, none. Excused, 2 (Anderson, Bunda).

SCRep. 2076 Transportation and Government Affairs on S.B. No. 2490

The purpose of this bill is to regulate the use of fireworks by:

- (1) Allowing non-aerial common fireworks to be set-off from 8:00 p.m. to 10:00 p.m. on the Fourth of July;

- (2) Prohibiting the exploding of fireworks within one thousand feet of buildings with more than ninety-nine units, or buildings in areas zoned and used for high-density, multi-unit housing; and
- (3) Making possession or distribution of aerial common fireworks punishable by a minimum fine of \$1,000.

Your Committee has amended this bill by:

- (1) Allowing non-aerial common fireworks to be set-off from 1:00 p.m. on the Fourth of July until 1:00 a.m. on July 5;
- (2) Authorizing county ordinances to determine areas that are prohibited from setting-off non-aerial common fireworks that may include areas within one thousand feet of any building with more than ninety-nine units, or any building in an area zoned and used for high-density, multi-unit housing; and
- (3) Creating a new misdemeanor for selling aerial fireworks without a license, or possessing, setting-off, igniting, or discharging aerial fireworks without a permit. This misdemeanor provides a nonsuspendable or deferable fine of \$1,000.

Your Committee feels that counties are better qualified to enact appropriate ordinances that address problems in densely settled areas.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2490, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2490, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, none.

SCRep. 2077 Ecology and Environmental Protection on S.B. No. 2998

The purpose of this bill is to establish definitions for nuisance source, nuisance source pollutants, and ongoing emissions; amend the definitions for "covered source" and "regulated air pollution"; and provide for rule making regarding new definitions and permits for nuisance source polluters.

Your Committee decided that the original contents of this bill should be replaced by directives to the department of health:

- (1) To study and review state and federal environmental laws to ensure their continued force, effectiveness, and consistency; and
- (2) To develop environmental goals and objectives for the State of Hawaii, with input from the general public and regulated community, to be used in the implementation of the department's programs.

Your Committee amended this bill by inserting both directives to the department of health; and requiring that the department report its findings and conclusions for the first directive to the 1997 Legislature, and report its findings and conclusions for the second directive to the Legislature no later than twenty days prior to the convening of the legislative session immediately following the completion of the reviews.

As affirmed by the record of votes of the members of your Committee on Ecology and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2998, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2998, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Aki, Ikeda).

SCRep. 2078 Judiciary on S.B. No. 659

The purpose of this bill is to extend the existing \$700 million limit on liability under the State Environmental Response Law, Chapter 128D, Hawaii Revised Statutes, for the release of heavy fuel oil from a tank barge carrying such oil interisland. This liability cap is currently slated to sunset on June 29, 1996.

Your Committee finds that a serious threat to essential public services and the State's economy could result from a disruption in the continued supply of heavy fuel oil by interisland tank barge shipment. According to testimony from the sole interisland transporter of heavy fuel oil, Hawaiian Interisland Towing, Inc., if the liability cap is not continued, it may cease operations.

Testimony was also received from Hawaiian Electric Company, stating that its utility companies on the islands of Maui and Hawaii rely significantly on the availability and use of heavy fuel oil and that a switch to higher cost alternative fuels would cause the residents and businesses on Maui and Hawaii to incur significant increases in their electricity bills. Hawaiian Commercial and Sugar Company testified that to switch to alternative fuels would increase the sugar plantation's power generation costs by over \$2 million. HC&S generates power to meet all of its own needs as well as 12% of the needs of the general public on Maui.

Accordingly, your Committee believes that the \$700 million limit on liability for barges carrying heavy fuel oil interisland, initially passed as Act 130, Session Laws of Hawaii (1992), should be continued. The Committee received

testimony from the State Department of Health in opposition to the extension of the liability cap due to the State's policy to move to cleaner fuels. The Committee believes that current economic conditions in Hawaii do not support an increase in electricity costs for neighbor island residents and businesses at this time, despite the merits of the State's environmental and energy goals.

Your Committee further finds that there still exists a threat that neighbor island nonfossil fuel producers will no longer have access to heavy fuel, a fuel that intermittently powers some of the nonfossil fuel producers' generators. Certain nonfossil fuel producers provide a significant amount of power to public utilities who, in turn, supply electricity to the general public.

Accordingly, there is a need to provide nonfossil fuel producers with an incentive and opportunity to continue to supply energy through the use of alternative fuels where the additional cost of the alternative fuel might otherwise be prohibitive by allowing the rate paid to the nonfossil fuel producers by the public utilities for such energy to be increased to cover the additional fuel costs incurred by the nonfossil fuel producers.

Accordingly, your Committee has amended this bill by:

- (1) Making the bill effective on June 30, 1996, to ensure a continuous liability cap for interisland transporters of heavy fuel oil; and
- (2) Adding language to reinstate the emergency rate action initially passed in Act 130 to encourage nonfossil fuel producers to continue to supply power to the utilities should they be unable to obtain heavy fuel oil on the neighbor islands.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 659, S.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 659, S.D. 3.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Chumbley).

SCRep. 2079 (Majority) Judiciary on S.B. No. 2007

The purpose of this bill is to provide that any waiver and release, waiver of liability, or indemnity agreement signed by a participant or any parent or guardian of a participant in a motorsports event shall be deemed an express assumption of the risk. The waiver would be valid and enforceable as a complete defense against any claim of personal injury by the participant or by the parent or guardian of a participant, irrespective of whether the participant or the parent or guardian of a participant did not read, understand, or comprehend the waiver.

Testimony in support of the bill was received from Hawaii Motorsports, Isenberg Motorsports, K&K Insurance Group, and Sports Car Club of America. According to the testimony, participants and families are aware that there are certain risks associated with motorsports and are willing to accept those risks by voluntarily providing waivers of claims against the promoters of motorsporting activities, facilities, and landowners. Otherwise, insurance companies will be unwilling to provide insurance to the owners of motorsports facilities, which would lead to the cessation of motorsports activities in Hawaii.

Upon further consideration, your Committee amended the bill to limit the validity of a waiver to actions for simple negligence against a motorsports facility. Waivers of liability would therefore not apply to actions involving gross negligence or willful and wanton conduct.

Your Committee believes that it is in the public interest to circumscribe the situations in which a waiver of liability is effective, given the inherently dangerous nature of motorsports activities.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2007, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2007, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, 1 (Tam). Excused, 2 (McCartney, Matsunaga).

SCRep. 2080 Judiciary on S.B. No. 2101

The purpose of this bill is to provide for the suspension or revocation of professional, vocational, occupational, or other licenses of a person who is in arrears on child support payments.

Your Committee finds that there are thousands of child support orders in existence in Hawaii, and payments are made on fewer than half of those orders. The Child Support Enforcement Agency has reported that the total current child support due in fiscal year 1994 was over \$77,000,000. Of that amount, the Agency received only \$49,000,000. This involved 27,212 child support orders, but collection was received in only 11,286 cases, or forty-one per cent. In cases in which children are on welfare, the percentage of orders for which payments are received plunges to thirty-three per cent. The obvious conclusion is that most people are not paying their child support, even when court-ordered to do so. With welfare reform imminent, including durational limits on the availability of financial assistance for poor children, it is critical that parents be held responsible for their children.

Your Committee finds that this bill is necessary to increase child support payments by the thousands of individuals who are avoiding their legal responsibilities while their children suffer the consequences. While your Committee strongly

agrees with the intent of this bill, however, your Committee finds that the bill as originally introduced, with some modification, will be more effective in addressing this problem.

The bill as originally introduced uses the administrative process for license revocation, requiring that initial written notice to the delinquent obligor be issued by the Child Support Enforcement Agency, and provides the opportunity to enter into an agreement or to request a hearing conducted by the Office of Child Support Hearings if the delinquency is disputed. Your Committee finds that this version provides the delinquent child support obligor with the due process necessary prior to the revocation of a license, while at the same time sending a strong message that failure to pay child support will result in the revocation of a license. In restricting the business and professional licenses of those who do not pay child support, your Committee finds that this bill, as originally introduced, provides the State with the opportunity to take a much-needed step in the direction of strengthening the child support enforcement process.

In contrast, the S.D. 1 version of this bill changed the procedural aspects to allow the Family Court to determine the delinquency and order the license revocation, requiring the Agency to initiate proceedings and to meet the burden of proving that a delinquency exists. Your Committee finds that these amendments unnecessarily burden and complicate an otherwise simple process. While your Committee has some concerns with the ability of the Child Support Enforcement Agency to efficiently operate the license revocation program, these concerns are overshadowed by the complication of the process resulting from the requirement that the Family Court issue orders of revocation.

Moreover, under the S.D. 1 version, the Family Court would be burdened in the areas of case processing and paperwork, for which federal matching funds are not available as they would be for the Agency. In particular, 45 C.F.R. §304.20(b)(4) specifies that funds are available for the Agency in operating an effective system for identifying delinquent cases and attempting to collect support from these cases, while 45 C.F.R. §304.21(b) provides that federal financial participation is not available for costs of compensation of judges, other judicial office-related costs, or for any travel or training required by judges or their administrative support staffs.

Additionally, your Committee finds that the original version of this bill allows for a greater opportunity initially for problem solving between the Child Support Enforcement Agency and the obligor, once notice has been issued. The original version also provides for greater certainty in the consequences of nonpayment; if the delinquent obligor fails to pay support for three months, and does not enter into a payment agreement, the obligor loses his or her license. Allowing the Family Court to issue revocation orders provides for less uniformity in the law, by giving the Court the discretion to order such terms and conditions and for such periods as it deems just.

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

- (1) Substituting the version of S.B. No. 2101 as originally introduced in place of the S.D. 1 version of this bill;
- (2) Amending the new section added to chapter 576D, Hawaii Revised Statutes, by section 2 of the bill, by amending subsection (d) to provide that hearings are to be conducted in accordance with chapter 576E, rather than chapter 576D, and by amending subsection (i) to allow, rather than require, each licensing authority to adopt rules to implement the new section;
- (3) Amending section 12 of the bill to change the effective date from upon approval to January 1, 1997, in order to allow the Child Support Enforcement Agency sufficient time to make the necessary changes to its computer system, so that the system will be operational at the time this bill becomes law, thereby allowing for improved streamlining of the license revocation process; and
- (4) Adding a new section to require the revisor of statutes to insert the appropriate Act number in section 10, and by making other technical, nonsubstantive amendments.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2101, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2101, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Chumbley).

SCRep. 2081 Judiciary on S.B. No. 2262

The purpose of this bill is to allow the family courts to use the practice of ho'oponopono, implemented by a haku, or well-respected unbiased individual, as one of the informal adjustment options for status offenders. Status offenses include runaways and curfew violations.

Your Committee received testimony noting that Hawaiians are overrepresented as a group among status offenders arrested in the State. Although Hawaiians constitute only twelve per cent of the total population in the State, they represent nearly thirty-five per cent of the juveniles arrested for curfew offenses and almost thirty-eight per cent of those arrested for being a runaway. The concept of ho'oponopono comes to us from the Hawaiian culture which values love and caring (aloha), unity and harmony (lokahi), family (ohana), and spirituality.

Your Committee finds that status offenders could benefit from the informal adjustment methods found in ho'oponopono, that is led by an unbiased, well-respected person who is knowledgeable with this practice. This need not be available only to those who are native Hawaiians, but to all children arrested for status offenses. The family-oriented approach offered by ho'oponopono can be beneficial to all because it seeks to make right through discussion, restitution, and forgiveness.

Your Committee has amended this bill by correcting the Ramseyer section to indicate both repealed and new statutory material.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2262, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2262, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Chumbley).

SCRep. 2082 Judiciary on S.B. No. 2470

The purpose of this bill is to:

- (1) Allow state and federal law enforcement agencies to require insurers to release information relating to arson investigation; and
- (2) Extend immunity to insurers who release information to state and federal law enforcement agencies relating to fire investigations.

Under current law, only the county fire chief is authorized to request information from insurers and to extend immunity to the insurers who provide this information.

Your Committee received testimony in favor of the bill from the Honolulu Fire Department and State Farm Insurance. According to the testimony, information from insurers are integral to arson investigations.

Your Committee believes that the intent of the bill is to facilitate the exchange of information between insurers and law enforcement agencies and thereby improve the investigative operations of fire losses of suspicious or incendiary origin.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2470 and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (McCartney).

SCRep. 2083 Judiciary on S.B. No. 2500

The purpose of this bill is to permit the department of education to exclude a child from school attendance when the child is found to be in possession of a dangerous instrument that may be used to cause death or serious bodily injury.

Your Committee heard testimony in support of this bill from the Hawaii State Teachers Association, the Honolulu Police Department and certain interested citizens. The Department of Education submitted testimony in support of the purpose of this bill with the position that current law grants the Department the discretion to exclude a child from school on a case by case basis.

Your Committee is aware that the provisions of this bill are patterned after the Gun-Free Schools Act that required each state to adopt a zero tolerance policy regarding the possession of guns on public school campuses. Your Committee finds that public school campuses are becoming the location for dangerous and violent incidents that randomly jeopardize the safety of all persons in their vicinity. Thus, it is in the interest of public safety that the Department of Education be adequately empowered to exclude children who, by carrying dangerous instruments, pose a threat to themselves, their peers and school staff.

Your Committee is unpersuaded by the Department of Education's testimony regarding its discretionary authority and deems it appropriate to establish policy in this area that is straightforward and unambiguous in order to reflect public's rightful expectation of safe school campuses.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2500 and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 7. Noes, none. Excused, none.

SCRep. 2084 Judiciary on S.B. No. 2547

The purpose of the bill is to remove, for drug and property offenses, sentences of less than the mandatory minimum periods of imprisonment, under the repeat offender statute of the penal code; and to include Unauthorized Control of Propelled Vehicles in the list of class C felonies subject to repeat offender sentencing; and to prohibit the parole of a defendant prior to the expiration of the defendant's mandatory minimum term of imprisonment.

Your Committee amended the bill to address the serious problems with class A drug offenses, and vehicular and property theft in our state.

Your Committee believes that drug offenses are one of the most serious problems in our state. Under current law, class A drug offenses are the only crimes which are probationable, yet, your Committee believes that these drug crimes are one of the most serious of class A crimes.

These drug offenses involve the distribution or possession of large quantities of the most dangerous drugs. These crimes primarily involve drug dealers whose activities have ruined many of the lives in our communities and many families in our state. The proliferation of drugs has also had a direct and significant impact on the increase in and the severity of both violent crimes and property crimes.

Most importantly, the bill was amended by repealing the provisions in Act 229, Session Laws 1994, which allowed a class A drug offender to receive a sentence of probation. Your Committee has reconsidered its previous position and believes that this class of criminal must not receive sentences of probation.

Your Committee also finds that vehicle thefts and property taken from these vehicles has become a serious problem in our state. This type of theft affects a significant number of residents and visitors. Your Committee received testimony from Maui county who stated that theft from vehicles, especially at the beaches, have negatively impacted their tourist industry.

The Maui police department testified that theft from vehicles accounted for approximately 22% of the Maui property crimes. On Oahu, the Honolulu police department stated that these thefts have increased from approximately 15,000 in 1992 to approximately 22,000 in 1995.

The bill was also amended by adding a new section to the penal code entitled "Unauthorized Entry into Motor Vehicle". Because of the significant increase in the number of these crimes, Your Committee made this offense a class C felony. The bill was further amended by removing sentences of probation for drug and property crimes, under the repeat offender statute, and by including Unauthorized Control of Propelled Vehicle to the list of class C felonies subject to repeat offender sentencing.

Your Committee received testimony in support of the bill from the Honolulu and Maui police department, Honolulu prosecuting attorney, Maui mayor, Maui Hotel Association, Kaanapali Beach Resort Association, Wailea Destination Association, and several individuals.

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

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (McCartney, Tam, Anderson).

SCRep. 2085 Judiciary on S.B. No. 2614

The purpose of this bill is to allow the Department of Hawaiian Home Lands to retain legal services without the approval of the Attorney General.

Your Committee finds that the Hawaiian Homes Commission has fiduciary duties in administering a public trust for a specific beneficiary group, the Native Hawaiians. Your Committee believes that there may be instances when it is appropriate for the Commission to retain its own legal counsel especially when the fiduciary responsibility of the Commission and the fiscal interest of the State are not in accord.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2614 and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (McCartney).

SCRep. 2086 Judiciary on S.B. No. 2984

The purpose of this bill is to authorize the court, in its discretion, to award holdover rent of two months of monthly rent in a summary possession action against a tenant who remains in unlawful possession of the premises.

Testimony in favor of this bill was received from the Judiciary and the Department of Commerce and Consumer Affairs, who testified that there may be sound reasons or extenuating circumstances where the withholding or non-payment of rent may be reasonable or justifiable.

Your Committee is aware that under current law, the court is required to award two months of holdover rent. Your Committee believes that the intent of the bill is to allow judges the discretion to determine the appropriate award of holdover rent based upon the facts and circumstances of each case.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2984 and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Tam, Anderson).

SCRep. 2087 Judiciary on S.B. No. 3058

The purpose of this bill is to enact legislation allowing designated individuals to make health care decisions on behalf of incapacitated persons who did not execute an advance health care directive such as a valid power of attorney for health care decisions, living will, or guardianship, prior to their incapacity.

Your Committee received testimony in support of this bill from the Hale Nani Rehabilitation and Nursing Center, the Hawaii Long Term Care Association, the Hawaii Medical Association, Hawaii Nurses' Association, the Hawaii Society for Social Work Administrators in Health Care, the Healthcare Association of Hawaii, Kuakini Health System, Oahu Care Facility, social workers, a graduate student, and a number of concerned citizens.

Testimony in opposition to the bill was received from the Archbishop Fulton J. Sheen Foundation, Hawaii Right to Life, and concerned citizens.

Your Committee is aware that federal regulations allow a designated legal surrogate to exercise the rights of a resident who has not been judged by a court to be legally incompetent.

Your Committee believes that the intent of this bill is to provide for legal recognition of decisions made by a health care surrogate.

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

- (1) Redefining and replacing the term "surrogate" with "legal surrogate";
- (2) Amending the definition of "health care provider" by deleting the reference to certified individuals;
- (3) Defining the term "medically ineffective health care" to mean the application of medical remedies or treatments for which there is no reasonable expectation or hope of a positive impact on an individual's mental or physical state;
- (4) Amending the definition of "supervising health care provider" to mean a primary physician or if one is not available, an advanced practice registered nurse who has undertaken primary responsibility for an individual's health care;
- (5) Providing that an oral designation of a legal surrogate must be made in the presence of the supervising health care provider and a witness who must be a competent adult;
- (6) Providing that a written advance health care directive of a patient or resident takes precedence over a legal surrogate's decisions; and
- (7) Requiring that a health care provider and a legal surrogate act with due diligence in order to obtain immunity from liability;

Your Committee believes that the concerns raised in the testimony have been adequately addressed in these amendments.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3058, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3058, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Anderson).

SCRep. 2088 Judiciary on S.B. No. 3131

The purpose of this bill is to require the State to give full force and effect to the time limit of judgments from other jurisdictions which are filed as foreign judgments in this State.

Upon further consideration, your Committee amended the bill to clarify that foreign judgments are not enforceable where, at the time of enforcement, the foreign judgment is no longer enforceable in the jurisdiction where the judgment was originally obtained.

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

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Chumbley, Tam, Anderson).

SCRep. 2089 Judiciary on S.B. No. 3165

The purpose of this bill is to grant immunity from liability for civil damages to hospitals and health care organizations for the release of health care data to public or private organizations collecting the data.

Testimony in support of the bill was received from the Hawaii Health Information Corporation, the Hawaii Medical Association, and the Healthcare Association of Hawaii.

Upon further consideration, your Committee amended the bill to prohibit the discovery or the admission into evidence of the aggregated data.

Your Committee believes that the intent of this bill is to encourage the providers to cooperate in submitting this data.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3165, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3165, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Anderson).

SCRep. 2090 Judiciary on S.B. No. 3171

The purpose of this bill is to provide that the notes of court reporters are State property and to clarify the duties of reporters.

Your Committee received testimony in support of this bill from the Judiciary, the Office of the Public Defender, and the Hawaii State Bar Association.

Your Committee is aware that current law does not require court reporters to take notes of the entire proceedings before the trial court. Thus, the transcripts of the trial court proceedings are often incomplete, which makes it difficult for the appellate court to determine what occurred during the trial.

Your Committee notes that this bill is intended to apply to all proceedings to which a court reporter is assigned and should not be interpreted as requiring that court reporters be used in all the district courts.

Your Committee finds that establishing State ownership of court reporter's notes ensures the availability of transcripts of court proceedings, even in instances when reporters leave the profession or the jurisdiction.

Your Committee believes that the accurate reporting of all court proceedings is essential for effective court administration.

Upon further consideration, your Committee made a technical amendment to specify that the notes of "official" court reporters belong to the State.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3171 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Anderson).

SCRep. 2091 (Joint) Housing and Ways and Means on S.B. No. 2068

The purpose of this bill is to authorize the Housing Finance and Development Corporation (HFDC) to issue revenue bonds for up to \$125,000,000 to finance the development of infrastructure on land owned by the HFDC.

Currently, the HFDC does not have the statutory authorization to issue revenue bonds for the development of infrastructure and has relied on CIP appropriations and the Homes Revolving Fund to finance such projects.

Favorable testimony was submitted by the Department of Budget and Finance, the HFDC, the City Councilmember for District IX, and the Ironworkers Stabilization Fund.

The Kokua Council submitted testimony in support of the bill if it is used to build rental housing for the very low income and low income individuals.

Testimony revealed that the enactment of this measure is an integral part of the financing for the University of Hawaii West Oahu Campus. The financing plan for the University of Hawaii West Oahu Campus requires HFDC financing for development of major off-site infrastructure such as roads, drainage systems, sewer lines, and utility lines to service the West Oahu campus site and the east Kapolei land bank area through several mechanisms including the issuance of short term tax-exempt revenue bonds.

It is estimated that the total infrastructure cost will be approximately \$115.2 million. This estimate includes the hard costs and interest expenses. Net proceeds from the sale of approximately 500 acres in the land bank area will be deposited into a special fund for the development of the University of Hawaii West Oahu Campus.

Much discussion resulted from the testimony presented. Your Committees have several concerns with respect to the intent and the broad language of the bill. Caution is necessary to avoid placing the State at risk of fronting the total cost for the infrastructure without assurances that these costs could later be recouped.

Your Committees are cognizant that the primary use for these revenue bonds is for the development of infrastructure for the University of Hawaii West Oahu Campus. Accordingly, your Committees have amended the bill to allow only the proceeds generated from the project for which the bonds are used to pay-off the principal and interest associated with these bonds.

As affirmed by the records of votes of the members of your Committees on Housing and Ways and Means that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2068, S.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as S.B. No. 2068, S.D. 2.

Signed by the Chairmen on behalf of the Committees.

Ayes, 11. Noes, none. Excused, 2 (Bunda, Holt).

SCRep. 2092 Transportation and Government Affairs on S.B. No. 3128

The purpose of this bill is to require unsuccessful applicants for liquor licenses, who reapply for a license for the same location, to show a substantial change in the circumstances that previously lead to the denial of their application. The bill further allows for investigatory fees and fees for collected signature verification, and requires the liquor commission to state in writing the reasons an application is granted or denied.

Your Committee received a substantial amount of testimony in support of this bill. There was great frustration expressed at having to repeatedly oppose renewed liquor license applications where there was no substantial effort to meet the objections which had resulted in the denial of the application in the first instance.

Your Committee has amended the bill to delete the requirement that the liquor commission state in writing its reasons for granting or denying an application, and to delete the collection of investigatory and signature verification fees. Your Committee has further reworded the bill to:

- (1) Make clear the requirement that a substantial change in circumstances must be shown in any renewed application;
- (2) To make clear that this requirement does not apply for withdrawals of applications not based on protests;
- (3) To specify the factors in evaluating the character of the area surrounding the proposed licensed premises; and
- (4) For purposes of clarity.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee 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 placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Solomon, Anderson).

SCRep. 2093 (Joint) Transportation and Government Affairs and Ways and Means on S.B. No. 3263

The purpose of this bill is to provide relief to small businesses adversely affected by Hurricane Iniki and to small businesses in counties with a population of 100,000 which may be hurt by a natural disaster. Specifically, this bill allows small business taxpayers to defer payment of general excise taxes as follows:

- (1) During the first eighteen-month period no general excise taxes are due;
- (2) During the second eighteen-month period the taxpayer shall pay taxes due from the first eighteen-month period; and
- (3) During the last eighteen-month period the taxpayer shall pay, in addition to all general excise taxes levied during that period, all general excise taxes due from the second eighteen-month period.

The bill also waives penalties and interest if the taxpayer pays in manner provided. Failure to pay as required will result in the imposition of all penalties and interest that would otherwise be waived.

Your Committees have amended the bill to define small business based on the number of employees rather than amount of gross income or proceeds. Accordingly, "small businesses" are businesses that qualify for the tax deferral in this bill are businesses that employ fifteen or fewer employees.

As affirmed by the records of votes of the members of your Committees on Transportation and Government Affairs and Ways and Means that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 3263, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 3263, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairmen on behalf of the Committees.
Ayes, 10. Noes, none. Excused, 2 (Anderson, Bunda).

SCRep. 2094 (Joint) Education and Judiciary on S.B. No. 2147

The purpose of this bill, as received by your Committees, is to require expulsion of not less than one year for students found in possession of intoxicating liquor or illicit drugs while attending school.

Your Committees find that the public schools need to be a safe and healthy environment in which students can learn without disruptions caused by students with alcohol and drug problems. Your Committees further find that substance abuse among students is a critical problem that needs to be addressed both through a policy of zero tolerance as well as recognition that students need help in treating their problem.

Thus, your Committees have amended this measure by deleting its substance and substituting therefor a new section that establishes a zero tolerance policy for students found in the possession of alcohol or drugs while attending school through: discretionary expulsion from school; mandatory alternative education; and mandatory intervention and treatment services as determined by the principal and school counselor.

As affirmed by the records of votes of the members of your Committees on Education and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2147, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2147, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairmen on behalf of the Committees.
Ayes, 6. Noes, none. Excused, 3 (Bunda, Matsunaga, McCartney).

SCRep. 2095 Education on S.B. No. 2328

The purpose of this bill is to clarify that the department of education's annual educational assessment and accountability status reports include expenditures by location and function.

Your Committee finds that reporting expenditures by location and function makes it possible for the legislature to identify costs by state central office, district offices, and school sites as well as providing detailed cost data for the specific functions. Your Committee further finds that requiring that the status reports to include expenditures by location and functions is more in line with the recommendations of the State Auditor, who in consultation with an educational finance consultant, developed the model for analyzing school expenditures upon which these status reports are based.

Your Committee has amended this measure by:

- (1) Deleting references to functions in subsection (b) since the functions have been moved to subsection (a); and
- (2) Making technical changes for the purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2328, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2328, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Bunda, Matsunaga).

SCRep. 2096 (Joint/Majority) Education and Judiciary on S.B. No. 2380

The purpose of this bill is to lower the State's compulsory school attendance age from eighteen years to sixteen years.

Your Committees find that:

- (1) Thirty-three states require children to attend school until the age of sixteen years;
- (2) Eight states and the District of Columbia require children to attend school until the age of seventeen years; and
- (3) Nine states, including the State of Hawaii, require children to attend school until the age of eighteen years.

Your Committees find that lowering Hawaii's compulsory school attendance age from eighteen years to sixteen years would bring the State closer to the average compulsory school attendance age in the United States--16.5 years.

Your Committees received testimony in support of this bill from the Principal of Farrington High School, who was also the Principal of Olomana School. Your Committees received testimony in opposition to this bill from the Department of Education.

Your Committees agree with the Department of Education's concerns that compulsory education comports with the goal to ensure an educated citizenry who are participating, contributing members of the community and that unsupervised children should not be released without program direction into the community-at-large. However, your Committees find that the task of forcing unwilling children who are between the ages of sixteen and eighteen to attend school and compelling disinterested parents to take an active role in the education of their children preoccupies the finite resources of the Department of Education, family courts and the county police departments in a way that does not bring meaningful return to the public effort to enforce compulsory education laws.

Your Committees believe very strongly, that a process that permits children between the ages of sixteen and eighteen to be excused from compulsory education is reasoned and well-precedented public policy that does not frustrate the goal of an educated citizenry or release unsupervised children to the community-at-large.

Accordingly, your Committees amended this bill to permit a child who is at least sixteen years old to be excused from attending school when the child, parent or guardian and the principal of the child's school agree to this action in writing. This bill further specifies that the record is to be kept in the child's school record and that nothing in this provision shall prohibit a child from resuming school in accordance with procedures established by the principal of the child's school.

Upon further consideration, your Committees amended the bill by changing the effective date to July 1, 1997 in order to permit the Department of Education time to establish internal policy to accomplish the intent of this bill.

As affirmed by the records of votes of the members of your Committees on Education and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2380, as amended herein, and

recommend that it pass Second Reading in the form attached hereto as S.B. No. 2380, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairmen on behalf of the Committees.
Ayes, 6. Noes, 1 (Kawamoto). Excused, 2 (Bunda, Anderson).

SCRep. 2097 (Joint) Education and Ways and Means on S.B. No. 3021

The purpose of this bill is to repeal obsolete laws contained in the education title of the Hawaii Revised Statutes.

Your Committees find that pursuant to Act 168, Session Laws of Hawaii 1995, the education statutory revision interim study group was formed to review the education title of the Hawaii Revised Statutes and identify statutes which should be consolidated, amended, or repealed. Your Committees further find that through the work of the interim study group, various statutes were identified as obsolete and should be repealed.

Upon further consideration, your Committees have amended this bill by:

- (1) Adding sections 296-7, 296-8, 296-9, 296-18, 296-41, 296-42, 300-1, 300-2, 300-5, 300-6, 300-24, and 301-23, Hawaii Revised Statutes to conform with the recommendations of the interim study group; and
- (2) Inserting a provision to direct the revisor of statutes to conform the provisions in this bill with the education recodification bill.

As affirmed by the records of votes of the members of your Committees on Education and Ways and Means that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 3021, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 3021, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairmen on behalf of the Committees.
Ayes, 8. Noes, none. Excused, 6 (Bunda, Fernandes Salling, Solomon, Tam, Taniguchi, Liu).

SCRep. 2098 Education on S.B. No. 3267

The purpose of this bill, as received by your Committee, is to mandate that the annual conference of students be held once each school year between July 1 and October 31.

Your Committee finds that the annual conference of students provides an opportunity for students to develop their critical thinking, problem solving, and communication skills as delegates selected to represent Hawaii's public school student population. Your Committee further finds that one of the most important aspects of the conference is its interaction with the legislature during the annual legislative session.

Upon further consideration, your Committee has amended this bill by deleting its substance and inserting therefor provisions that:

- (1) Request the student conference committee to suspend the 1997 annual conference of students and convene in its place a student governance summit, for the purposes of examining the organizational structure and roles and responsibilities of the student conference committee and the individual school council; and
- (2) Request the student conference committee to submit a report of its findings and recommendations to the board of education and to the legislature during the 1997 regular session.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3267, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3267, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Matsunaga, Tam).

SCRep. 2099 Transportation and Government Affairs on S.B. No. 2365

The purpose of this bill is to include motorcycles and motor scooters of less than twelve horsepower and thirty-five years of age or older in the definition of "antique motor vehicle" under section 249-1, Hawaii Revised Statutes (HRS), and to exempt them from safety inspection and insurance requirements.

The Department of Transportation, the City and County of Honolulu, and members of the public submitted testimony favorable to the bill. Your Committee has amended the bill to delete the exemption from safety check inspections.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2365, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2365, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Solomon, Tanaka).

SCRep. 2100 (Joint) Transportation and Government Affairs and Ways and Means on S.B. No. 3231

The purpose of this bill is to provide that the counties shall not diminish or repeal the real property tax exemption for real property leased to the State where the lease requires the lessee to pay the property taxes.

The Department of Accounting and General Services submitted testimony in favor of the bill as it will save the State approximately \$2,000,000.

Your Committees have amended the bill to provide that the bill shall be repealed two years from its effective date.

As affirmed by the records of votes of the members of your Committees on Transportation and Government Affairs and Ways and Means that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 3231, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 3231, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairmen on behalf of the Committees.

Ayes, 8. Noes, none. Excused, 4 (Bunda, Solomon, Anderson, Liu).

SCRep. 2101 Judiciary on S.B. No. 686

The purpose of this bill is to propose an amendment to the State Constitution to require the Governor to appoint the Attorney General from a list of nominees submitted by the Judicial Selection Commission.

Your Committee, in deliberating on this issue, initially considered proposing that the attorney general be elected. However, your Committee is concerned that making the office elective would raise the level of political disputatiousness in the community. The current Attorney General has contended that an elected attorney general could expose the office to political practices, particularly because of fundraising which could negatively impact the Attorney General's independence in performing the duties and responsibilities of this important office.

Your Committee believes that the change in the selection of the Attorney General proposed in this bill will make the process of selecting the best possible person a more objective one and thus permit and encourage greater numbers of interested persons to apply for the position.

Your Committee notes that this bill provides for a constitutional amendment, which shall take effect upon compliance with Article XVII Section 3 of the Constitution. Your Committee finds that this bill will provide that after the next gubernatorial election, any qualified person who is interested in being the Attorney General may apply to the Judicial Selection Commission for nomination to the office which shall run consecutively with that of the Governor.

Your Committee has amended this bill by:

- (1) Adding that the Attorney General's term will expire at the end of the term for which the Governor was elected, unless sooner removed; provided such removal is subject to the advice and consent of the Senate; and
- (2) Making a few technical, nonsubstantive changes for purposes of style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 686, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 686, S.D. 2.

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (McCartney, Tam, Anderson).

SCRep. 2102 Judiciary on S.B. No. 2624

The purpose of this bill is to allow the transfer of business accounts from one principal to another through the consent of only the client.

Testimony in favor of this bill was received from the Insurance Commissioner and the Delta Insurance Group.

Your Committee believes that when it comes to the transfer of any contract, the consent of the client is often required. The law is unclear, however, as it applies to the transfer of insurance contracts.

Upon further consideration, your Committee amended the bill as suggested by the Insurance Commissioner to specify that an insurer shall not prohibit by contract licensed agents from providing services to consumers when the consumer so desires.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2624, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2624, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 2 (Chumbley, Anderson).

SCRep. 2103 Judiciary on S.B. No. 2738

The purpose of the bill is to provide a consistent penalty for certain specific unfair and deceptive acts or practices of regulated industries under chapter 480, Hawaii Revised Statutes (HRS), governing monopolies and restraint of trade.

Your Committee finds that this bill is intended to delete duplicative or unnecessary penalty provisions and by deeming the violations to constitute unfair and deceptive business practices under section 480-2, Hawaii Revised Statutes.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2738 and recommends that it be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (McCartney, Matsunaga).

SCRep. 2104 Judiciary on S.B. No. 2748

The purpose of this bill is to delete the June 30, 1996, repeal date of Act 253, Session Laws of Hawaii (1993), which authorized the Regulated Industries Complaints Office (RICO) to issue administrative citations for ongoing unlicensed activities in professions subject to regulation by the Department of Commerce and Consumer Affairs (DCCA).

Your Committee finds it is in the public interest to continue the issuance of administrative citations in order to effectively deal with unlicensed activity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2748 and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Chumbley).

SCRep. 2105 (Majority) Judiciary on S.B. No. 2888

The purposes of this bill are to relax the eligibility criteria and to extend to July 1, 2001 the authority of the Department of Public Safety to release certain pretrial inmates on an emergency basis.

Specifically, this bill would allow the Director of the Department of Public Safety to consider for emergency release all pretrial detainees with bail of less than \$10,000 who are not charged with offenses against the person or robbery.

Your Committee heard testimony in support of this bill from the Attorney General and Public Safety departments. Testimony in opposition was received from the Honolulu Prosecuting Attorney and the Honolulu Police Department.

According to the Attorney General, these amendments are necessary because the emergency release program is a key element in the management strategy of the Oahu Community Correctional Center and the Women's Community Correctional Center, whose populations are limited by the Spear V. Cayetano consent decree. The Attorney General testified that existing law categorically excludes all persons charged with class A or B felonies, without regard to the actual likelihood of danger to others.

The Prosecuting Attorney and Honolulu Police Department expressed strong opposition to this bill because of its threat to public safety and the likelihood of pre-trial inmates to re-offend while on emergency release is high.

Your Committee shares the concerns of the Prosecuting Attorney and the Honolulu Police Department and feels very strongly that public policy which provides for the release of pretrial inmates because of increases in the inmate population is, in the long run, inappropriate corrections management strategy. However, your Committee finds that the exigencies arising from the cumulative effects of the crime rate, consent decree and the State's present general fund shortfall force the State to provide the Executive Branch the means to manage its responsibilities in a clear and effective manner that will not unduly compromise public safety.

Upon further consideration, your Committee amended this bill by deleting the amendment that would make persons charged with felonies excluding crimes against the person and robbery eligible for emergency release. This amendment restores the current eligibility standard. Your Committee also amended the bill by extending the sunset provision one year to June 30, 1997. Your Committee finds that extending the repeal date of the emergency release program by one year signals the ultimate repeal of this authority as well as the State's commitment to find alternative long run solutions to managing Hawaii's correction population. Your Committee is aware that the executive branch shares in the commitment to maintaining the integrity of the State's correction policies.

Your Committee also amended this bill to require the Director to supervise each pretrial detainee released pursuant to this section in the same manner as those released from regular custody.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2888, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2888, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, 1 (Anderson). Excused, 1 (Chumbley).

SCRep. 2106 Judiciary on S.B. No. 2980

The purpose of this bill is to allow the court to place jurors who wilfully fail to appear when summoned for jury service into the qualified jury wheel for further service in the following year, instead of allowing the term of service to expire.

Testimony in support of this bill was received from the Judiciary, which reported that the First Circuit Court experiences an average of 15 to 16 percent of "no-show" jurors per year. This bill represents the recommendation of the Chief Justice's jury operations committee to resolve this problem.

Your Committee believes that the intent of this bill is to improve the effectiveness of the jury system by assuring a representative cross-section of the community.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2980 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Tam, Anderson).

SCRep. 2107 Judiciary on S.B. No. 2872

The purpose of this bill is to authorize the chief election officer to automatically nominate the board of education representatives to the general election, where there are only two qualified candidates at the close of the filing deadline for seats requiring residency in the particular school district.

Your Committee believes that this bill is intended to improve the efficiency of the electoral process, by eliminating the need for a primary election ballot.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2872 and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Chumbley).

SCRep. 2108 (Joint) Judiciary and Ways and Means on S.B. No. 2232

The purpose of this bill is to require the use of a six-member jury in trials for all criminal matters in which the maximum term of imprisonment is less than six months, and to permit the use of less than twelve jurors in civil actions.

Your Committees received testimony in support of this bill from the office of the Honolulu Prosecuting Attorney which said that more than sixty jurisdictions in thirty states permit the use of juries with less than twelve members for felony, misdemeanor, or civil trials.

Your Committees are aware that the United States Supreme Court ruled the six-member jury constitutional in which the jury sentenced a defendant to life imprisonment for burglary in Williams v. Florida, 399 U.S. 78 (1970). In Williams, the U.S. Supreme Court ruled that Florida's use of a six person jury in all cases except capital cases did not violate the defendant's Sixth Amendment rights as applied to the states through the Fourteenth Amendment. The Williams court found that many of the perceived disadvantages of a six-person jury instead of a twelve person jury appeared to be unfounded.

The essential feature of a jury obviously lies in the interposition between the accused and the accuser of the common sense judgment of a group responsibility that results from that group's determination of guilt or innocence. The performance of this role is not a function of the size of the body that makes up the jury. To be sure, the number should probably be large enough to promote group deliberation, to be free from outside attempts at intimidation, and to provide a fair possibility for obtaining a representative cross-section of the community. But your Committees find little reason to think that these goals are in any meaningful sense less likely to be achieved when the jury numbers six than when it numbers twelve - particularly if the requirement of unanimity is retained. Certainly the reliability of the jury as fact finder hardly seems likely to be a function of its size. Williams at 100-102.

In light of the Williams ruling and the large number of states presently using six member juries, and in the interest of judicial and fiscal economy, your Committees find it reasonable and appropriate to provide the courts with the express authority to impanel juries of a size agreed to by the parties, but no less than six, upon stipulation of the parties.

Upon further consideration, your Committees amended this bill by providing for a two year sunset date in order to ensure an opportunity for further review of this policy.

As affirmed by the records of votes of the members of your Committees on Judiciary and Ways and Means that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2232, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2232, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairmen on behalf of the Committees.
Ayes, 10. Noes, none. Excused, 8 (Bunda, Fernandes Salling, Fukunaga, Ikeda, Matsunaga, Tam, Anderson, Liu).

SCRep. 2109 Judiciary on S.B. No. 2247

The purpose of the bill is to raise the crime of manslaughter from a class B felony to a class A felony, to make the defense of extreme mental or emotional disturbance an affirmative defense, to require a temporary loss of control for the defense, and to determine the reasonableness of a defendant's explanation from the viewpoint of a reasonable person, that he or she was under the influence of extreme mental or emotional disturbance.

Your Committee finds that the State has had an increase in homicides, especially homicides involving domestic violence situations. Under current law, manslaughter is a class B felony so that a person convicted may be sentenced to imprisonment for up to 10 years. Manslaughter is currently probationable.

Your Committee believes a maximum sentence of 10 years imprisonment is inadequate for the taking of a life. The bill makes manslaughter a class A felony so that a person convicted shall now be sentenced to a term of imprisonment of 20 years.

If the State cannot prove beyond a reasonable doubt that the defendant was not under the influence of extreme mental or emotional disturbance, the defendant cannot be convicted of murder, but may be convicted instead of manslaughter. The killing is reduced to manslaughter if the defendant was under the influence of extreme mental or emotional disturbance at the time of the killing.

Your Committee finds that the defense has sometimes been incorrectly used to avoid a conviction of murder, notwithstanding the inappropriateness of the defendant's conduct in the killing of another. Your Committee further finds that in almost every case involving a domestic violence killing, the defendant has claimed that he or she was under the influence of extreme mental or emotional disturbance, no matter how calculated or brutal the killing.

Cases with the strongest evidence for the State are sometimes returned with a verdict of manslaughter, very often because the jury is confused by this defense. During deliberations, juries normally ask the court for an explanation of this defense or a part of its terms.

Juries also often request the court for further clarification on the application of this defense to the facts of the case. The defendant retains the advantage when the juries are confused because jury confusion often leads to "reasonable doubt". Your Committee believes that the defense of extreme mental or emotional disturbance requires the necessary clarification provided in this bill.

The bill requires the extreme mental or emotional disturbance to have caused temporary loss of self-control. Hawaii case law has held that the loss of control is a "significant" if not "the most significant" factor in the extreme mental or emotional disturbance test. Your Committee believes that this type of disturbance is necessary to reduce murder to manslaughter.

Presently, the reasonableness of the defendant's explanation of the influence of extreme mental or emotional disturbance is from the defendant's point of view, even if the explanation is unreasonable, mistaken or unacceptable to society. The bill makes the determination of reasonableness from the viewpoint of a reasonable person.

The bill also makes the defense an affirmative defense. By making the defense an affirmative defense, the defendant can offer evidence by a preponderance of the evidence in support of the defendant's extreme mental or emotional disturbance. Once the defendant does this, the State still has the burden of proof beyond a reasonable doubt to prove that the defendant was not under the influence of extreme mental or emotional disturbance to obtain a murder conviction.

Your Committee received testimony in support of the bill from the Criminal Injuries Compensation Commission, Hawaii State Commission on the Status of Women, Parents and Children Together, Hawaii Women's Political Caucus, Domestic Violence Clearinghouse and Legal Hotline, Hope Domestic Violence Consultants, Department of the Attorney General, Honolulu Police Department, and several individuals.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2247 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (McCartney, Tam, Anderson).

SCRep. 2110 Judiciary on S.B. No. 2546

The purpose of this bill is to increase the fines for selling tobacco products to a minor.

Specifically, this bill increases the following fines for selling tobacco products to minors or for failing to post, on or near vending machines selling tobacco products or other locations where tobacco products are sold, required signs prohibiting the sale of tobacco products to minors:

- (1) The first offense: from not more than \$100 to not more than \$2,500; and
- (2) Subsequent offenses: from not less than \$100 nor more than \$1,000 to not less than \$100 nor more than \$5,000.

The Department of Health testified that increased fines provide a needed deterrent to illegal sales of tobacco products -- minors smoke an estimated 516,000,000 packs of cigarettes each year with half of these cigarettes sold illegally. At present, many merchants are unaware of the law and many do not have the required prohibitory signage. The Honolulu Police Department testified that increased fines should make merchants more aware of their responsibilities. The American Lung Association testified that those who sell tobacco products to minors illegally must be made aware that their actions will suffer strong consequences in the form of much higher fines. Hawaii teens typically begin smoking at age

thirteen and virtually no one acquires a nicotine habit after reaching the age of twenty. Similarly, the American Heart Association, the Coalition for a Drug-Free Hawaii, and several private citizens testified in support of increased fines as a deterrent measure.

Your Committee finds that language in this bill providing for a fine "not more than \$2,500" allows the possibility for much lower fines for a first offense. Similarly, the proposed language imposing fines for subsequent offenses of "not less than \$100 nor more than \$5,000" allows the possibility of the imposition of fines much lower than \$5,000.

Your Committee finds that vendors must be sent the right message that violations will be dealt with seriously. In addition, by fixing the amount of fines precisely at \$2,500 and \$5,000, no more and no less, your Committee believes that regardless of the level of inspection and enforcement by the police departments, the law will have a strong deterrent effect.

Accordingly, your Committee has amended this bill to revert back to the language contained in the original version of the bill which deleted the phrases "not more than \$100" and "not less than \$100 nor more than \$1,000" so that the new fines of \$2,500 and \$5,000 for first and subsequent offenses, respectively, are precisely fixed and cannot be reduced.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2546, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2546, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Chumbley).

SCRep. 2111 Judiciary on S.B. No. 2993

The purpose of this bill is to enact the Uniform Probate Code (1993 version) ("UPC"), with appropriate amendments.

This bill No. 2993 is the work product of the Judicial Council's Committee on Uniform Probate Code and Probate Court Practices appointed by Chief Justice Ronald T. Y. Moon. That Committee undertook a review of Articles I through IV of the model Uniform Probate Code (1993 version) and determined that the model legislation, with amendments appropriate to Hawai'i traditions, would be a vast improvement over existing law.

Your Committee concurs that this bill would be a great step forward in the area of probate. It will significantly reduce the time, complexity, and expense of probate proceedings. It will free judiciary personnel from routine paper work in the vast majority of probates in which there are no disputes. As the Chief Justice noted in his transmittal of the proposed legislation to the Legislature, probate will no longer be a time-consuming, cumbersome process that Hawai'i's citizens dread to the point that they spend hundreds and thousands of dollars creating trusts and rearranging title in order to avoid. At the same time, this bill provides ready access to a judge in the event that a dispute arises during the course of a probate. Thus, the probate courts will become like the rest of our courts: places to which to turn to resolve disputes.

This bill also favorably impacts areas other than probate procedures. It creates a meaningful system for protection of the interests of surviving spouses, giving them the same sorts of rights to marital assets when the marriage ends by death as they are entitled to when the marriage ends by divorce. It preserves intact Hawai'i's enlightened and well-thought-out "ohana adoption" statute adopted by the Legislature in 1992. It establishes comprehensive rules for the interpretation and construction of wills and trusts which are not precisely written.

In sum, it is a bill which enhances judicial efficiency and provides significant time and cost savings for consumers faced with probate.

There are a number of minor technical amendments which your Committee has made. Specifically:

Section 560:1-201 is amended on line 3 of page 8 to delete the words "or branch" because there are no branches of the circuit court;

Section 560:1-302(a) is amended to add the words "and except as otherwise provided by section 560:5-102" after the word "constitution" in order to preserve the family court's exclusive jurisdiction of guardianships of the person;

Section 560:1-308 is amended to add the words "and the Hawai'i rules of civil procedure" at the end because such rules govern the initial filing of a notice of appeal;

The figure "\$10,000" in section 560:2-205(3)(iii) is increased to "\$20,000" in order to permit the amount to be given as a gift (without fear of implicating the elective share statute) to equal the maximum amount a husband and wife can collectively give to any one individual each year without filing a federal gift tax return;

A new section designated as 560:2-209, tracking model UPC section 2-209, is added to correct an inadvertent omission in the original submission;

Section 560:3-201(a) is amended to substitute the words "judicial circuit" for "county" to reflect Hawai'i statutory terminology;

The word "five" is substituted for the word "three" in section 560:3-301(a)(1)(vi) in order to be consistent with section 560:3-108;

Sections 560:3-302 and 560:3-306 are amended to alter the prior notice requirements for an informal probate of a will for the reasons set forth in paragraph 12 below and to require that beneficiaries and heirs be specifically notified that the court is available to resolve any disputes about attorneys' fees since they will no longer be set by a statutory schedule;

Section 560:3-307 is amended by adding the words "if at least 120 hours have elapsed since the decedent's death," following the words "section 3-614" in order to return to model UPC language which is appropriate on account of the changes which your Committee has recommended for sections 560:3-302 and 560:3-306;

Section 560:3-308(a)(6) is amended by deleting the words "and the advance notice required by section 560:3-306" since this is superfluous on account of the changes which your Committee has recommended for sections 560:3-302 and 560:3-306;

A new section designated as 560:3-310, reading exactly as section 3-310 in the model UPC, is added because of the changes which your Committee has recommended for sections 560:3-302 and 560:3-306;

Section 560:3-403(c) is amended to add the words "or certified" after the word "registered" in order to be consistent with the reference to certified mail in section 560:3-412(5);

Section 560:3-414(a) is amended by deleting the words "section 3-301(1)" and substituting therefor the words "section 3-301(a)(1)" to rectify a typographical error;

The introductory clause of section 560:3-715 is amended by adding the words "or by sections 531-28.5 and 531-29" after the words "formal proceeding" in order to make clear that the section 531-29 provisions relating to the sale of real property apply to all of the personal representative's actions regarding such a sale;

Section 560:3-715(23) is amended by deleting the words ", provided that the sale of any real property shall comply with section 531-29" as duplicative of the change referenced in the previous paragraph;

Sections 560:3-801(a) and (b) are amended by substituting the word "may" for the word "shall" for the reasons set forth in paragraph 16 below;

Section 3-803(a) is amended by deleting the words "as follows" and substituting therefor the words "within the earlier of the following" for clarity;

Section 3-803(a)(2) is amended by deleting the words "three years" and substituting therefor the words "eighteen months" for the reasons set forth in paragraph 16 below;

Section 560:3-902(a) is amended by substituting the words "without any preference or priority as between real and personal property" for the words "with personal property being abated prior to real property in each classification" to reflect your Committee's opinion that the model UPC rule of abating real and personal property equally is preferable to the current Hawai'i rule that personal property be consumed completely before real property is resorted to;

Section 560:3-910 is amended by substituting the words "chapter 247" for the words "[insert appropriate reference]" in order to reflect the conveyance tax statute;

Section 560:8-101(b)(6) is deleted in its entirety as not being applicable to Hawai'i probate judges who are circuit court judges;

Section 560:8-102(a) is amended to substitute the words "chapter 534A and chapter 236A" for the word "[Reserved]" in order to reflect the fact that sections 2-104 and 2-702 duplicate chapter 534A and section 3-916 duplicates chapter 236A;

The words "or by an heir in an intestate probate proceeding" on line 12 of page 264 are deleted since they are inadvertently repeated.

References to various sections in part 9 of article II (statutory rule against perpetuities) all of which are simply designated "reserved", have been replaced with references to chapter 525, Hawaii Revised Statutes;

On a number of occasions, the term "personal representative" has been substituted in place of "representative" if the context indicated that the former term was intended;

Sections 531-28.5 and 560:6-107, Hawaii Revised Statutes, have been amended to replace cross references to sections repealed by this bill with appropriate replacement references; and

Chapters 236A and 534A, Hawaii Revised Statutes, are being repealed because comparable replacement provisions are included in the new material being added by this bill.

With these technical amendments, S.B. No. 2993, S.D. 1, is in a form suitable for consideration by the Senate.

The bill as amended tracks closely with the model Uniform Probate Code (1993 version). One significant benefit of our enactment of uniform legislation is that courts and attorneys here can look to judicial interpretation of identically worded statutes in other states for guidance in interpreting the local statute. As indicated above, the Judicial Council's Committee has changed some of the language in a few model UPC sections to reflect and address Hawai'i traditions and concerns. So that the local courts and attorneys can know why your Committee is recommending those changes to the model Uniform Probate Code, we set out below a description of each non-self-evident substantive change to the model Uniform Probate Code and the reasoning behind such changes.

1. Section 1-201(28): Letters testamentary and letters of administration will only be effective for three years unless renewed for good cause, and this limitation will be stated on the face of the letters.

Reason for change: UPC §§3-1001 et. seq. do not require an informally appointed personal representative to close an estate; a personal representative or an interested person may formally close an estate with a court approved accounting. The latter would be done to secure protection for the personal representative or if a beneficiary was dissatisfied over the administration. In order for the Court to be able to consider a file "pau" in the absence of a court-approved closing, simply limiting the efficacy of the letters to three years seems to be sufficient. In addition, it is anticipated that the time constraint will inspire personal representatives to complete the administration of the estate.

2. Section 1-307 permits a judiciary staff person designated by a judge to grant applications for informal probate and appointment. Although it is doubtful that these persons would be personally liable for any good faith mistakes in this quasi-judicial function and it is likely that judicial immunity attaches to such official acts without having the statute specifically so state, the Legislature wishes to make clear that its failure to amend the statute to specifically grant judicial immunity is motivated simply by the desire to preserve uniformity since it believes that this immunity exists without being explicitly stated, and failure to include a specific statement of immunity should not be considered as evidence of any intent not to have judicial immunity attach to the registrar in the performance of official duties.

3. Section 2-114 is amended from model UPC language to read exactly like existing Hawai'i law now found in section 560:2-109, Hawaii Revised Statutes.

Reason for change: Section 2-114 is Hawaii's pacesetter "ohana adoption" statute, enacted in 1992, which reflects the Hawaiian tradition of extended in-family adoptions with no intention that such adoptions legally sever the inheritance relationship from and through the natural parent, either in cases of intestacy or in testamentary documents. There is no Legislative intent to have any part of this legislation in any manner affect the results which would presently obtain under existing 560:2-109, now renumbered as 560:2-114.

4. Section 2-202 is amended to clarify that a surviving spouse may elect an elective share smaller than the amount to which the spouse is entitled.

Reason for change: For purposes of post-mortem estate and family planning, the surviving spouse may desire to elect against the decedent's will, but not to the maximum extent provided. The suggested language makes clear that the surviving spouse has the right to make a "partial" election.

5. Section 2-208 is amended to exclude from the augmented estate calculations both trust assets funded by someone other than the married couple and property inherited during marriage and kept segregated.

Reason for change: The elective share concept reflects a tension between society's respect for a testator's right to dispose of property as the testator desires and society's insistence that this right not be utilized in a manner which would leave a surviving spouse with insufficient assets on which to live, plus the fact that the decedent probably was aided by the surviving spouse, at least indirectly, in the acquisition of the property (i.e., that they were "partners" of sorts). If a surviving spouse elects to take an elective share rather than that which would pass under the decedent's estate plan, the spouse has, in effect, rejected the decedent's estate plan and sought benefits presumably greater than those intended by the decedent.

The current Hawai'i statute which permits a surviving spouse an elective share only against the decedent's net probate estate weighs heavily in favor of freedom of testation; the decedent can "disinherit" the surviving spouse by the simple medium of a revocable living trust.

Experience in other jurisdictions has shown the model UPC's augmented estate concept to be workable. Your Committee feels that, if the State is to have a statutory scheme providing protection for surviving spouses, it should be a better one than now exists and the UPC augmented estate concept is basically quite good.

This bill has a new paragraph (a)(2) which is not found in the model UPC. This language is intended to exclude from consideration, in calculating the augmented estate against which the elective share may be asserted, any property held in a trust created by a third person and property that is both acquired by gift, devise, inheritance or trust distribution and kept segregated. The exclusion of the former property furthers the partnership view of marriage in that neither partner was responsible for the creation of the wealth in this type of trust. In addition, the exclusion of this type of property will make the computation of the value of the augmented estate easier as, for example, it will not be necessary to determine the value of a third party trust providing a life interest for a surviving spouse.

The exclusion of property received by gift, inheritance, or otherwise after marriage, to the extent that it has been kept segregated, reflects your Committee's judgment and view that this type of property has long had special status in Hawaii. The Hawai'i appellate courts recognize that special status in their consideration of the division of property in the case of divorce. See Tougas v. Tougas 76 Haw. 19, 27 (Sup. 1994); Hussey v. Hussey, 77 Haw. 202 (App. 1994). If the deceased spouse receiving such property has gone to the trouble of segregating it during marriage, it is your Committee's opinion that the surviving spouse should not be able to elect against it.

Parties can, of course, contract so as to exclude or limit elective share rights in the event that the marriage terminates on account of divorce or death. See Chapter 572D, Hawaii Revised Statutes, and UPC §2-213.

6. Section 2-212 is amended to better protect the descendants of the first spouse to die against an election by a guardian of an incapacitated surviving spouse.

Reason for change: The purpose of the elective share is to provide the surviving spouse adequate assets on which to live. In re Estate of Merkel, 618 P.2d 872 (Mont. 1980). The Legislature could require a court hearing to determine the "bona fides" of any surviving spouse's election against the deceased spouse's estate plan to insure that the surviving spouse has a need for the elected assets. That, however, would be expensive and judicially inefficient. Rather, the

Legislature presumes that, in a marriage which has lasted until the death of one spouse, the surviving spouse will give due consideration to the deceased spouse's wishes as represented by the estate plan. The problem arises, however, when the surviving spouse is incompetent to make this election; any person making the election for the surviving spouse's benefit cannot fully know and appreciate the extent of the understandings between spouses arising during the course of the marriage.

There are an increasing number of second marriages, often with both spouses having children from prior marriages and with each spouse having the desire to ultimately pass his or her assets to his or her children after the death of the surviving spouse. The current statutory (and 1969 UPC) provisions require that a court first determine "need" before an incapacitated surviving spouse could elect (through a guardian) against the pre-deceased's spouse's estate plan. The model UPC (1993 version) seeks to safeguard the interest of the predeceased spouse's prior family by requiring that any assets taken by an election go into a trust in which the surviving spouse has only a life interest for that spouse's "use and benefit", at the termination of which the assets would pass under the pre-deceased spouse's estate plan. Your Committee recommends expanding the model UPC protections for the predeceased spouse's family by placing more restrictions on when and for what purposes the custodial trust may be invaded. Thus, your Committee has restricted the assets expended from the custodial trust for the benefit of the surviving spouse by (i) requiring that consumption of the surviving spouse's own assets be first required unless the trustee determines that it would be inappropriate, (ii) permitting invasion of principal only for the benefit of the surviving spouse and those whom the surviving spouse is required to support, and (iii) restricting the uses to which the assets can be put to "health, education, maintenance and support", words which have acquired meaning in the Internal Revenue Code sections on estate taxation and which are more restrictive than the model UPC's "use and benefit."

7. Section 2-516 is amended to increase the sanctions on a person who knowingly and wilfully hides the will of a decedent.

Reason for change: Your Committee feels that there should be a strong disincentive to fail to produce the will of a decedent, hence the provision for treble damages for wilful non-production. For judicial efficiency, your Committee feels that any proceedings relating to damages arising from non-production of the will should be maintained in the probate proceeding relating to the will.

8. Section 2-606 is amended to restrict the instances where other property can be substituted for property specifically devised by a will.

Reason for change: The language deleted from the model UPC section would greatly expand property covered by a specific devise. Under current law, if the decedent wills his 1984 Ford to his son and later dies owning a 1993 Chrysler but not a 1984 Ford, the son does not inherit the Chrysler. Under the model UPC, the son would inherit the Chrysler if he can persuade a court that it was acquired "as a replacement" for the Ford. Your Committee feels uncomfortable with the change proposed by the model UPC. If the decedent's successors are in agreement that the son should inherit the Chrysler, they can always so direct under section 3-912. Or the testator could so provide by having a specific devise of "the car I own at the time of my death". In the absence of such an agreement or devise, however, your Committee felt that court time would not be well spent litigating questions of what the decedent intended when he disposed of specifically devised property without simultaneously amending his will.

9. Section 2-703 is amended to make clear that Hawai'i's rules of evidence will govern disputes in Hawai'i probates.

Reason for change: The change is intended to make clear that Hawai'i's law on evidence will govern the disposition of assets passing through Hawai'i probate. As the model UPC language indicates, there may be other public policy reasons for negating a testator's choice of law selection.

10. Section 2-709 is amended to make clear that the rules of construction relating to "per stirpes" and "right of representation" apply only to testamentary instruments executed after the effective date of the statute.

Reason for change: The terms "per stirpes" and "right of representation" are used interchangeably, and sometimes concurrently, in many existing wills and trusts in Hawaii. See In re Estate of Allen, 35 Haw. 501 (1940) (the will in question contained a devise which was to be divided amongst the takers "per stirpes by right of representation". 35 Haw. at 508). Some courts hold the terms to be synonymous. See Johnson v. Huntley, 39 Wash.2d 499, 236 P.2d 776 (1951). This section could cause different results depending upon which term was used. Your Committee feels that these rules should apply only prospectively to documents written after the effective date of the section lest there be unintended results in existing estate plans. Other rules of construction, however, would apply to previously drafted instruments. See section 560:8-101(b)(5).

11. Section 3-108 is amended to increase the time within which to submit a will for probate from three years to five years and to give the court discretion as to whether or not to later use a will not timely submitted as evidence of ownership of property.

Reason for change: Your Committee prefers existing Hawai'i law which permits probate of a will for up to five years following death. Giving the court discretion to permit a later use of the will to establish title to realty would address the issue implicit in Martin v. Martin, 77 Haw. 251 (1994) wherein the court had no choice but to deny the efficacy of a late presented will. In Martin there is the suggestion that the will was not timely presented so that the possessor of the will could avoid payment of sums which the will required to be paid as a condition of him inheriting certain realty; under your Committee's language, if a court in a situation like Martin believed that to be the case, the court could refuse to permit the will to be used to establish title.

12. Sections 3-302 and 3-306 are amended to require prior notice of an application for informal probate of a will to heirs and devisees only if the person making the application is not a professional fiduciary or a close family member.

Reason for change: The Judicial Council Committee had recommended, and this bill had provided, that advance notice of either informal probate of a will or informal appointment of a personal representative be required. The model UPC only required that notice be given after appointment. The Judicial Council Committee's concern was that a person may have induced an invalid will from the decedent and that person would be given authority to gather all assets before the decedent's family knew what had happened. Your Committee feels that its language addresses this concern while not requiring advance notice in those instances where the person requesting informal probate is unlikely to be acting in bad faith (e.g., a close family member or a professional fiduciary).

Thus subsection (a) of section 3-302 is new language. Subsection (a) of section 3-306 tracks model UPC language but adds the reference to a corporate fiduciary and family members. Subsection (b) of section 3-306 is your Committee's language which addresses the "stranger" presenting a will for informal probate. Subsection (c) of section 3-306 is model UPC language.

13. Section 3-407 is amended to make clear that the burden of proof in contested probate cases shifts, and does so in the manner prescribed in the rules of evidence.

Reason for change: The Commentary to the model UPC notes that its language sets forth "what is believed to be a fairly standard approach to questions concerning burdens of going forward with evidence in will contest cases." However, the model UPC language does not on its face allow for the shifting of the burden of proof upon proof of certain facts. For example, once a contestant establishes that a testator lacked capacity, the proponent of a will which was thereafter executed has the burden of proving that the will was written during a lucid interval. See *In re Coleman*, 1 Haw.App. 136, 615 P.2d 760 (1980); *Estate of Lopez*, 25 Haw. 197 (1919). In addition, once it is established that the proponent of a will in a confidential relationship with the testator actively procured the execution of the will and unnaturally benefitted thereunder, the burden shifts to the proponent to prove a lack of undue influence. See *Estate of Gelonese*, 36 Cal.App.3d 854, 111 Cal.Rptr. 833, 838 (1974); cf. *Teixeira v. Teixeira*, 40 Haw. 631 (1955) ("The burden of proof where there is a transaction between those standing in a fiduciary relationship is upon the person who held the position of superiority and influence by virtue of the relationship." at 637.) Under the rules of evidence, the presumption of undue influence is one which changes the burden of proof since it is a presumption adopted to implement a public policy. See Hawai'i Rules of Evidence, Rule 304(a); *Estate of Gelonese*, *supra*.

Your Committee's additional language is intended to make clear that the burden of proof in will contest cases is subject to change upon proof of requisite facts in the same manner as it is subject to change in other areas of law under the rules of evidence.

14. Section 3-606 is amended by adding a new paragraph (6) to insure that bonds in probate do not lapse because of the personal representative's errors.

Reason for change: Paragraph (6) continues existing Hawai'i law and is desirable to insure that the surety's liability will not be extinguished on account of any malfeasance of the personal representative.

15. Section 3-715 is amended to make clear that the sale of realty provisions found in section 531-29 are still available should an interested party request judicial intervention.

Reason for change: Existing Hawai'i law requires court confirmation for the sale of realty from probate even if all interested parties agree to the sale terms. The language added to section 3-715 reflects your Committee's attempt to balance the desire to treat land sales carefully with the desire to minimize court involvement where the interested parties are in agreement. There is some strong sentiment that the requirement of court confirmation of realty sales should be abandoned completely as in the UPC. That sentiment is fueled by a judgment that the requirement of a court confirmation tends to lead to lower initial offers on probate property since the initial offeror knows that there will be the inherent delay occasioned by court proceedings and, in addition, knows that the offeror may be outbid at the court hearing. The contrary view is that the court confirmation leads in some cases to a bidding war which benefits the estate by escalating the sale price. Your Committee's language bows to the wishes of the interested parties: if either the decedent requires, or one of the successors of the estate demands, the sale must be confirmed by the court.

16. Sections 3-801 and 3-803 are amended to give the personal representative the option of whether to publish notice to creditors, and to provide a vehicle for trustees of the decedent's trusts to publish notice and thereby compel creditors to timely present their claims or have them barred. If there is no publication, creditors' claims would be barred if not presented within eighteen months after death.

Reason for change: The model UPC gives a choice to enacting legislatures as to whether or not to require published notice. Strong opposition was expressed in hearings to the requirement of published notice, especially given the expense (around \$300) which was considered unnecessary in a simple probate. By giving published notice, a personal representative can shorten the time within which creditors must present their claims to four months following publication; by changing "shall publish" to "may publish", this language gives the personal representative the choice to save money or to shorten the creditor claim period.

Paragraph 3-801(f) and section 3-803 are intended to address a nettlesome area of law. The use of revocable living trusts is widespread in Hawai'i. To the extent that the motivating force for these trusts has been probate avoidance, your Committee expects that they will be far less common in the future than they have been in the past. These trusts are intended as a will substitute. However, there is now no law which specifically addresses the creditor's rights as against assets held in trust and the time limits within which a creditor may seek to exercise whatever rights may exist. Section 3-801(f) does not address the substantive issue of the right of a creditor to proceed against the assets in trust, but it does give the representatives of the decedent the right to set up the same time bars as are available in probate if the representatives accord the creditors the same notice to which they are entitled for probate assets.

Finally, section 3-308 gives creditors eighteen months following death within which to present claims where no notice to creditors is published. The model UPC would give creditors one year while existing Hawai'i law gives them three years. Your Committee feels that eighteen months is a fair balance between the competing desires to wrap up probates quickly and to give creditors adequate time to learn of the death and act thereon.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2993, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2993, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Chumbley, Tam, Anderson).

SCRep. 2112 Ways and Means on S.B. No. 1805

The purpose of this bill is to provide conformity in retirement benefits for members of the Employees' Retirement System who receive a two and one-half per cent pension accrual rate by requiring public safety investigations staff investigators to adhere to the same retirement qualifications as other members in the same benefit class.

Your Committee finds that all other ERS members in the benefit class which receives an accelerated pension accrual rate of two and one-half per cent of average final compensation for each year of service are required to serve their last five years prior to retirement in the capacity of the position receiving the higher pension accrual rate. The public safety investigations staff investigators were not required to fulfill this pre-retirement requirement when the law was amended in 1994. This bill will correct that oversight.

Your Committee has amended this bill by deleting the words "a part" on page 3, line 4, because those words have no place in the phrase as amended.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1805, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1805, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2113 Ways and Means on S.B. No. 2059

The purpose of this bill is to give qualified retirants who have been retired for at least thirty-five years as of July 1, 1996, a bonus of \$14 for each year of credited service per month.

Your Committee finds that these pensioners represent some of the oldest retirees who would have retired by June 30, 1960 and whose base pension is very low because wage levels at that time were low. They would also be a group that probably has the greatest need for supplemental financial assistance because of their advanced age.

Your Committee has amended this bill by:

- (1) Changing the \$14 bonus to a blank amount to allow for cost estimate data to be submitted by the Employees' Retirement System;
- (2) Retaining the June 30, 1997 sunset date (instead of the June 30, 1999 extension) applicable to bonus payments created in 1990. This will allow the Legislature to look again at this issue next year, after more time has passed and more data is available on the State's financial picture; and
- (3) Terminating on June 30, 1996 the \$1.25 bonus for each year of credited service for retirants who have been retired for five to nine years. Unhappily, the burden of the State's bleak revenue income must be shared and this group represents more recent retirees who are more likely to be able to afford some cutback in retirement income bonuses.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2059, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2059, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2114 Ways and Means on S.B. No. 2060

The purpose of this bill is to make police chaplains eligible for workers' compensation benefits if they are injured while performing voluntary and unpaid services for county police departments.

Specifically, this bill defines a "police chaplain" as a member of an authorized chaplaincy program of a county police department who performs services in a voluntary and unpaid capacity under the authorized direction of the chief of police.

Your Committee finds that the police chaplains of the Honolulu Police Department are commissioned as reserve police officers and, consequently, are eligible for workers' compensation benefits if they are injured while performing voluntary and unpaid services for the police department. Your Committee finds, however, that police chaplains of the other three

county police departments are not commissioned as reserve police officers and, consequently, are not eligible for workers' compensation benefits.

Your Committee also finds that police chaplains are often exposed to the same hazards and often assume the same risks as police officers. Because police chaplains must familiarize themselves with the culture of police officers and criminals to be effective, it is practically impossible to shield them from these hazards and prevent them from assuming these risks. In view of these circumstances, your Committee believes that police chaplains should be eligible for workers' compensation benefits if they are injured while performing voluntary and unpaid services for county police departments.

Your Committee has amended this bill by:

- (1) Amending the definition of "police chaplain" to one who performs services under the authorized direction of an officer of the police department, rather than only the chief of police, to be consistent with the definition of "reserve police officer" in section 386-181(a), Hawaii Revised Statutes; and
- (2) Making technical, nonsubstantive changes for purposes of clarity, consistency and style.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2060, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2060, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2115 Ways and Means on S.B. No. 2090

The purpose of this bill is to establish a pesticide use revolving fund, and to appropriate moneys out of the general fund for deposit into that revolving fund for the 1996-1997 fiscal year.

In particular, this bill requires that the fund be administered by the Department of Agriculture to operate its pesticide program, including registration and licensing, certification and education, compliance monitoring activities, and pesticide training workshops, educational programs, and related services. The fund is to consist of all licensing and registration fees and charges collected by the department. This bill also raises pesticide registration fees and clarifies that private applicators are subject to the same penalties applicable to commercial applicators or distributors of pesticides when acting in those capacities.

Your Committee finds that this bill is necessary to ensure that persons engaged in activities requiring the use of pesticides be trained in their use to ensure the maintenance of safety and environmental quality. The Department of Agriculture has not had sufficient resources to conduct continuing education and training programs in this important area, and the only consistent source of training has been provided by the various industry associations. Your Committee finds that this bill will provide the department with sufficient funds to either conduct its own classes or enter into a cooperative arrangement with industry representatives to conduct these programs. This bill will also allow the department to conduct the recycling of containers, disposal of unwanted chemicals, and other necessary activities involving pesticides.

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

- (1) Amending section 1 of the bill which adds a new section to chapter 149A, Hawaii Revised Statutes, by deleting language allowing moneys from the revolving fund to be used for the payment of salaries and for all other costs incurred for the pesticide programs required by that section. Your Committee believes that moneys in the revolving fund should not be used for these purposes;
- (2) By amending subsection (c) of the new section to allow, rather than require, the department to set fees for educational services and training. Your Committee finds that this change will give the department needed flexibility regarding whether or not to set fees; and
- (3) By adding an additional subsection to provide that no more than \$150,000 in fees and charges collected by the department is to be deposited into the revolving fund in any given fiscal year. All fees and charges collected in excess of \$150,000 are to be deposited to the credit of the state general fund.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2090, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2090, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2116 Ways and Means on S.B. No. 2152

The purpose of this bill is to authorize the University of Hawaii and the Department of Education to create custodial accounts for the deposit of their employees' annuity payments.

This bill also holds the State, the University of Hawaii, and the Department of Education harmless from liability for the sums invested in or the performance of these custodial accounts, including any claims, demands, losses, and expenses, including attorney's fees and the costs of defense.

Your Committee finds that this bill corrects an oversight in the law that has been in place since the amendment of the Internal Revenue Code in 1986, that allowed educational employees to invest in custodial accounts, such as mutual funds. Currently, all private educational employees in Hawaii, and, since 1989, all public educational employees in each of the other states, may buy tax-deferred annuities directly from mutual funds without having to go through an insurance company middleman. Hawaii, however, is apparently the only state that has not corrected this omission.

Your Committee finds that this bill provides a long-overdue and necessary investment vehicle for public educational employees that may assist them at a time in which the State cannot provide them with pay raises, and places Hawaii's public educational employees on a par with those in other states.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2152, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2117 Ways and Means on S.B. No. 2278

The purpose of this bill is to appropriate \$1,000,000 to the Department of Agriculture for agricultural research and development to be performed by the Hawaii Agriculture Research Center (formerly the Hawaiian Sugar Planters' Association).

In addition, this bill provides that:

- (1) No research funds for specific agricultural commodities with annual statewide crop sales of \$10,000,000 or greater, based on the most recent statistics available to the Department of Agriculture, are to be expended unless matched on a dollar-for-dollar basis; and
- (2) No research funds for other agricultural commodities are to be expended unless matched on the basis of \$3 from the State for each dollar from the private sector, except that up to \$250,000 may be released unmatched for exploratory agricultural research and development, including, but not limited to, vegetable variety trials, demonstration plantings, and pest management alternatives to chemical control.

Your Committee finds that agriculture is one of the State's most important industries and a vital component of the State's economic base. Although sugar will continue to be one of Hawaii's primary export products, the sugar industry is downsizing to remain viable and competitive. With the continued downsizing of the sugar industry, agricultural research and development has become increasingly important for maintaining and improving current crops grown across the State and for developing new crops so that the State can take the best economic advantage of the thousands of acres of prime agricultural lands that are now available.

The Hawaii Agriculture Research Center (formerly the Hawaiian Sugar Planters' Association) has been working with agriculturists, landowners, and the State to develop new agricultural opportunities on these prime agricultural lands across the State. In 1996, the Hawaii Agriculture Research Center will begin a second century of conducting proven production-oriented, results-driven scientific research for the benefit of the State's agriculture industry and will continue to be a key resource in the State's efforts to strengthen and improve the agriculture industry, revitalize the economy, and maintain and create employment opportunities.

Your Committee has amended this bill by:

- (1) Changing the amount appropriated from \$1,000,000 to an unspecified sum;
- (2) Changing the annual statewide crop sales figure that triggers the dollar-for-dollar matching requirement from \$10,000,000 to an unspecified amount;
- (3) Changing the matching requirement for "other agricultural commodities" from \$3 state/\$1 private to an unspecified amount of state funds;
- (4) Changing the amount that may be released unmatched for exploratory agricultural research and development from \$250,000 to an unspecified sum; and
- (5) Making technical, nonsubstantive changes for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2278, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2278, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2118 Ways and Means on S.B. No. 2485

The purpose of this bill is to preserve certain employee rights, privileges, and benefits for furloughed state or county employees.

Your Committee finds that the current fiscal crisis facing the State dictates the study of cost saving measures. One such measure that deserves due consideration concerns the mandatory furlough of state and county employees. Your Committee finds that in its haste to find solutions to the State's budget problems, the Legislature sometimes forgets about those directly affected by its actions.

This bill represents a recognition of furloughed employees and ensures that employee benefits are maintained during furloughed periods. Your Committee received favorable testimony from two unions that supported this measure. This bill would assist the employee who retires immediately after a furlough, and the employee who dies while on furlough. The preservation of employee benefits under these situations reveal the necessity for this bill.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2485 and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.

Ayes, 7. Noes, none. Excused, 4 (Fernandes Salling, Fukunaga, Solomon, Tanaka).

SCRep. 2119 Ways and Means on S.B. No. 2486

The purpose of this bill is to preserve certain employee rights, privileges, and benefits for furloughed legislative employees.

Your Committee finds that the current fiscal crisis facing the State dictates the study of cost saving measures. One such measure that deserves due consideration concerns the furlough of state and county employees. This bill proposes to preserve certain rights of furloughed legislative employees.

Your Committee has amended this bill by providing these rights to legislators instead of legislative employees.

It is the intent of your Committee not to include legislative employees in any furlough action. Inasmuch as your Committee finds that any cost savings measure implemented by the State should apply across-the-board to all state employees, legislative employees represent a unique classification of state workers. First, Senate employees have not received an adjustment in their salary for several years. Traditionally, legislative employee pay raises have followed public employee union contracts. Senate employees were not subject to the last pay raise enjoyed by public employee unions.

Second, legislative employees work an inordinate number of hours during the legislative session without overtime compensation. It is not unusual for many legislative employees to work 80-100 hours a week during the session. This kind of stressful schedule will often detrimentally affect professional, social, and familial relationships.

Third, the average tenure of legislative employees usually follows the tenure of legislators which is often less than what is required to qualify for retirement benefits. Thus, employment is often brief with little incentive not to find other employment.

Lastly, the Senate has already taken a proactive stance in the face of budget cutbacks by reducing its budget by five per cent.

For the aforementioned reasons, your Committee supports the exemption of legislative employees from any furlough action by the State.

Your Committee has therefore amended this bill to apply only to legislators and not to legislative employees, and by making other technical, nonsubstantive changes.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2486, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2486, S.D. 1.

Signed by the Chairman on behalf of the Committee.

Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2120 Ways and Means on S.B. No. 2682

The purpose of this bill is to give the Department of Agriculture more flexibility to decide on the importation of certain kinds of plants, animals, and microorganisms.

More specifically, this bill:

- (1) Gives the Department of Agriculture authority to assess user fees for import permits, and exempt by rule algae, bacteria, and fungi used as food or for food preparation;
- (2) Clarifies the entry status of organisms imported into biocontrol containment facilities;
- (3) Adds to the kinds of articles which are prohibited from entry into Hawaii, any plant microorganism which may be detrimental to Hawaii's ecology; and
- (4) Allows a short-term permit for the importation of an unlisted animal to be granted on a case-by-case basis.

Your Committee finds that the Department of Agriculture, with the authority to charge a fee for import permits, will be able to generate some funds because approximately 2,000 import permits each year are being granted. This bill will also provide the Department more flexibility in the Department's authority to permit the entry of certain animals and organisms into the State, for example, permit the entry of certain microorganisms used as food or in food preparation including certain kinds of seaweed.

This bill defines more clearly what constitutes an import and will allow certain organisms quarantined in the biocontrol containment facility to be released through a permit process. Although your Committee has concerns about the dangers of releasing organisms outside of the quarantine, your Committee recognizes the importance of research.

Your Committee believes that the Department of Agriculture should carefully review each permit to ensure that the release of a quarantined organism does not pose a danger to the community and should aggressively seek prosecution of violators. With these concerns in mind, your Committee believes this bill will establish a balance between allowing research and economic growth and protecting the residents of this State.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2682, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.

Ayes, 7. Noes, none. Excused, 4 (Fernandes Salling, Fukunaga, Solomon, Tanaka).

SCRep. 2121 Ways and Means on S.B. No. 2683

The purpose of this bill is to authorize the Department of Agriculture to certify honey bee export shipments when health certificates are required as a condition of export.

Your Committee finds that certain countries that import honey bees require exporting countries to issue permits to producers who export honey bee queens. Shipments from Hawaii must be accompanied by a health certificate issued by the state Department of Agriculture and endorsed by the United States Department of Agriculture, Animal and Plant Health Inspection Service. The health certificate must show that the bees have met the standards and conditions established by the importing country. Your Committee finds that this bill will expand the exporting opportunities of honey bee exporters in Hawaii by allowing them to export their products more expediently.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2683 and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.

Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2122 Ways and Means on S.B. No. 2800

The purpose of this bill is to provide the executive branch with the flexibility to choose its own management team.

Specifically, this bill exempts from civil service requirements all administrative officers, directors, division heads of state agencies, and administrators of correctional facilities and centers. The bill also allows employees currently employed to remain in the civil service, making actual implementation prospective as vacancies occur.

Your Committee recognizes that while the Governor should be allowed to shape the executive management team, the wholesale exemption of all administrative officers, directors, and division heads of state agencies from the civil service may result in appointments of a purely political nature. This bill attempts to address this concern by providing for the appointment of qualified individuals, with consideration given to incumbents. Nonetheless, this bill still represents a drastic and radical change in the method of appointing key administrative staff of state agencies. Your Committee finds that it is more prudent to implement an incremental, rather than a wholesale, change by exempting only certain positions from civil service requirements.

Accordingly, your Committee has amended this bill by exempting only the administrators of correctional facilities and centers from civil service requirements, and not administrative officers, directors, and division heads of all state agencies. This amendment will ensure that qualified, top level management personnel in the Department of Public Safety will be more responsive and responsible for the public safety needs of the correctional facilities while ensuring the safety and health of staff, inmates, and the general public. Your Committee has also made technical, nonsubstantive amendments for the purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2800, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2800, S.D. 2.

Signed by the Chairman on behalf of the Committee.

Ayes, 7. Noes, none. Excused, 4 (Fernandes Salling, Fukunaga, Solomon, Tanaka).

SCRep. 2123 Ways and Means on S.B. No. 2811

The purpose of this bill is to provide for the establishment of a deferred compensation retirement plan for the benefit of part-time, temporary, and seasonal or casual employees who are not eligible to participate in the State's existing deferred compensation plan or employees' retirement system.

Your Committee agrees with the intent of this bill, especially in these tight fiscal times because this bill provides a new benefit for certain state employees with no additional costs. Your Committee finds that this bill will result in a potentially significant savings to the State, since eligible employees, whose participation in the plan would be mandatory, would not be required to contribute to social security and the State would also not be required to pay the mandatory social security contributions.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2811, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2124 Ways and Means on S.B. No. 2836

The purpose of this bill is to amend parts of the Employees' Retirement System (ERS) law pertaining to interest and earnings of the system and the calculations on actuarial valuations.

More specifically, this bill repeals the provision requiring earnings of the ERS in excess of the statutorily established investment yield rate to be credited against a public employer's contributions to the ERS and extends the years for which an eight per cent actuarial valuation is made, from years ending June 30, 1995 and June 30, 1996 to years ending June 30, 1994 to June 30, 2000 and changing the assumed salary increases of six and one-half per cent to four per cent.

Your Committee finds that lowering the salary assumption rate will probably be more accurate given the decreases in state revenues and overall tight financial situation. The repeal of the excess earnings credit to public employers is also financially advantageous to the State because among other things:

- (1) Over \$2,318,000 would be saved over the next two years in public employer contributions;
- (2) There would be less volatility in the fluctuations of employer contributions from year to year because of amortization of excess earnings and shortfalls over the employees' working careers which in turn would allow the ERS to maximize its investment earning capacity;
- (3) Employer contributions would be lowered in the long term while the ERS's unfunded liability would be steadily reduced in the shorter term to the point of becoming fully funded within ten years; and
- (4) There could be a windfall of about \$42,500,000 to the State's general fund in fiscal year 1996-1997.

Your Committee has amended this bill by leaving blank the assumed investment yield rate. Your Committee believes that a lower assumed investment yield rate can be expected as interest rates have been lower than in the past for some years now. This, along with the lower assumed salary increases, may be a more realistic vision of where the costs are headed for the ERS.

In addition, your Committee has deleted section 1 relating to the reduction of employer contributions by the amounts by which investment earnings exceed the investment yield rate, and renumbered subsequent sections.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2836, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2836, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2125 Ways and Means on S.B. No. 2848

The purpose of this bill is to allow the Director of Labor and Industrial Relations to establish fees for specific services rendered under the Hawaii occupational safety and health law.

Specifically, this bill authorizes the Director of Labor and Industrial Relations to establish fees for:

- (1) The issuance of permits, certificates, or licenses;
- (2) Searching, reviewing, segregating, and providing records;
- (3) The costs of training materials used in Department of Labor and Industrial Relations sponsored workshops; and
- (4) The costs of public notices required for variances, and public requests for the adoption, amendment, or repeal of rules.

Your Committee finds that the establishment of the abovementioned fees will transfer the costs of specific government services to the users of these services.

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

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2848, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2848, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2126 Ways and Means on S.B. No. 2850

The purpose of this bill is to authorize withholding of federal and state income taxes from unemployment compensation.

This bill allows individuals to voluntarily request that any state or federal taxes that may be due be withheld and paid by the department to the respective parties as required by law.

Your Committee finds that the voluntary withholding is beneficial for both the State and the individual. The State is assured of receiving the taxes due and the individual is not faced with a burdensome income tax bill at the end of the year. This bill also adds a new section to the employment security law requiring the Department of Labor and Industrial Relations to advise individuals receiving unemployment compensation that those benefits are subject to federal and state income taxes.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2850, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2127 Ways and Means on S.B. No. 2941

The purpose of this bill is to establish a commercial fisheries special fund within the Department of Land and Natural Resources to provide the funding necessary for programs and activities relating to the management, conservation, and monitoring of aquatic life.

Your Committee finds that although the Department of Land and Natural Resources regulates all commercial fishing activities in the State, all moneys generated by the department through the issuance of fishing permits and the assessment of fines and other charges are deposited into the general fund. A special fund for the collection and deposit of these proceeds will enable the department to utilize these earnings for commercial fisheries purposes. The moneys in the fund will be used for the conservation, improvement, monitoring, and management of commercial fisheries.

While it fully supports the intent of this bill, your Committee feels that the commercial fisheries special fund should be a temporary fund rather than a permanent fund. In this regard, your Committee has amended this bill by establishing a repeal date within five years of the creation of the fund. Your Committee has also made various technical, nonsubstantive amendments.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2941, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2941, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2128 (Majority) Ways and Means on S.B. No. 3012

The purpose of this bill is to extend health benefits to an unmarried child of a member of the public employees health fund if the child is less than twenty-three years old, enrolled in an educational institution as a full-time student, and deemed eligible by the board of trustees of the health fund.

Specifically, this bill amends the definition of "employee-beneficiary" by providing that the foregoing child is eligible to receive health benefits.

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

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3012, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3012, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 9. Noes, 1 (Liu). Excused, 1 (Bunda).

SCRep. 2129 Ways and Means on S.B. No. 3063

The purpose of this bill is to streamline the disbursement of medicare Part B insurance premiums to public employee retirees and beneficiaries.

Specifically, the bill authorizes the board of trustees of the Employees' Retirement System to release records of its retirees and beneficiaries to the Hawaii public employees health fund so that the fund can broker an agreement with a financial institution to establish a system of electronic funds transfers to implement the disbursements.

Your Committee believes that this bill will implement these medicare disbursements while at the same time saving personnel and postage costs.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3063, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2130 Ways and Means on S.B. No. 3110

The purpose of this bill is to exempt certain employers from having to make unemployment insurance contributions on behalf of students who are participating in paid, work-based learning programs.

Specifically, this bill amends the definition of "employment" in the Hawaii Employment Security Law (Chapter 383, Hawaii Revised Statutes) to exclude services performed by students who are enrolled at nonprofit or public educational institutions in full-time programs that combine academic instruction with work experience. This bill also requires the Department of Labor and Industrial Relations to submit a biennial report to the Governor and the Legislature on the cost impacts to the State of providing workers' compensation coverage for these students.

Your Committee finds that the financial burden of having to make unemployment insurance contributions on behalf of students who are participating in paid, work-based learning programs prevents more employers from participating in these crucial programs. Work-based learning programs are an important part of a broader strategy intended to develop a globally competitive and skilled Hawaii workforce. By providing incentives for participation, the Legislature is sending a clear message to businesses that the State places a high value on community participation in education.

Your Committee has amended this bill by: (1) deleting the provision requiring the Department of Labor and Industrial Relations to submit a biennial report on the cost impacts to the State of providing workers' compensation coverage for students who are enrolled in full-time programs that combine academic instruction with work experience since the title of this bill relates only to employment security (i.e., unemployment compensation) and the state constitution requires that the contents of a bill not exceed the scope of its title; and (2) making technical, nonsubstantive changes for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3110, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3110, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2131 Ways and Means on S.B. No. 3154

The purpose of this bill is to provide workers' compensation coverage for students in work-based learning situations who are not paid wages directly by private employers, by treating such students as school volunteers under chapter 90, Hawaii Revised Statutes, relating to volunteer services.

Your Committee finds that a major educational reform movement involving establishing statewide comprehensive school-to-work transition systems is taking place under the federal School-To-Work Opportunities Act, P.L. 103-239. Under this Act, Hawaii is expected to receive \$10,200,000 of federal assistance over a five-year period to provide work-based learning opportunities for all students. Your Committee finds, however, that efforts to expand work-based learning opportunities are hampered by employers' concerns about liability for students in work sites.

Your Committee believes that this bill will encourage greater employer participation in these school-to-work programs, by providing relief to employers regarding workers' compensation coverage for unpaid students in such programs. Coverage for workers' compensation is already provided to students in a vocational student internship program who are paid by a private employer under Act 231, Session Laws of Hawaii 1995. Furthermore, your Committee notes that this bill will provide the same relief from liability to employers as is already provided to organizations that participate in school volunteer services.

Your Committee has amended this bill as follows:

- (1) By amending the purpose section to further explain and clarify the bill's intent and effect and to delete language indicating the bill amends Act 231, Session Laws of Hawaii 1995; and
- (2) By making a few technical nonsubstantive changes for purposes of style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3154, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3154, S.D. 2.

Signed by the Chairman on behalf of the Committee.

Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2132 Ways and Means on S.B. No. 2022

The purpose of this bill is to appropriate funds for the expansion of the Hawaiian language immersion program, papahana kaiapuni Hawai'i, for Ni'ihau school, and the Hawaiian medium language program for Ni'ihau children at Kekaha School, with matching funds from the Office of Hawaiian Affairs.

Your Committee finds that the Hawaiian language, once on the verge of extinction with fewer than fifty Hawaiian-speaking children in the State, has been saved by the devoted efforts of educators and parents throughout the State.

Your Committee finds that since the population of Ni'ihau is native Hawaiian, it would be appropriate to require the Office of Hawaiian Affairs (OHA), with its mandate to aid the native Hawaiian population, to fund the entire educational project serving the children of Ni'ihau. However, as a sign of support for the Hawaiian immersion project, your Committee has not amended the bill to require that but has passed it out in its current form, with funding by the State matched by OHA.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2022, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.

Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2133 Ways and Means on S.B. No. 2087

The purpose of this bill is to require all moneys, including penalties, interest, reimbursements, fees for the renting of school facilities, and charges for late or nonreturned books, collected by a public school to be deposited with and used by the school, rather than deposited into the state general fund.

As amended, the purpose of this bill is to clarify and expedite certain business operations involving public schools.

Your Committee has amended this bill by deleting its contents and adding provisions to:

- (1) Exempt procurements of less than \$5,000 by a public school from the Hawaii Public Procurement Code, and prohibiting the practice of parceling;
- (2) Specify that all net profits arising from student-run enterprises (in addition to agricultural and industrial pursuits) at a public school: (i) shall be used by the school for the purchase of equipment and material, not otherwise provided for in the school budget, that will be of general benefit to the pupils; or (ii) may be distributed among the pupils actually engaged in the enterprises, unless otherwise provided by law;
- (3) Define the term "student-run enterprise" to mean any undertaking whose primary purpose is to educate students through direct student participation in any type of business activity, including, but not limited to, operations, management, control, research, marketing, finance, or sales; and
- (4) Require section -520, Hawaii Revised Statutes, as contained in section 2 of S.B. No. 2446 or H.B. No. 3252 (Relating to the Recodification of the Education Statutes), as the case may be, to be amended to reflect the amendment of section 300-3, Hawaii Revised Statutes, in this bill, if S.B. No. 2446 or H.B. No. 3252 is passed by the Legislature in any form during this Regular Session of 1996, to reflect the renumbering, restructuring, and reorganization of chapters 296, 296C, 296D, 297, 297D, 298, 299, 300, and 301, Hawaii Revised Statutes.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2087, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2087, S.D. 1.

Signed by the Chairman on behalf of the Committee.

Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2134 Ways and Means on S.B. No. 2145

The purpose of this bill is to allow the Department of Education to enter into lease agreements for the acquisition of public school facilities, including any lands for these facilities.

In addition, this bill:

- (1) Allows the Department of Education to enter into contracts, lease-purchase agreements, and other transactions to acquire lands for public school facilities; and
- (2) Invalidates a lease entered into by the Department of Education to acquire public school facilities or lands for these facilities unless the Legislature, by Act, consents to the lease.

Your Committee has amended this bill by:

- (1) Deleting the provision invalidating a lease unless the Legislature consents to the same;

- (2) Adding a provision:
- (A) Subjecting any lease or lease-purchase agreement entered into by the Department of Education to disapproval by the Legislature by two-thirds vote of either the Senate or the House of Representatives or by majority vote of both in any Regular or Special Session next following the date of the lease or lease-purchase agreement;
 - (B) Requiring the Department of Education to submit for introduction to the Legislature a resolution for review of action on any lease or lease-purchase agreement twenty days prior to the start of any Regular or Special Session; and
 - (C) Requiring the foregoing resolution to contain a list of all leases and lease-purchase agreements consummated by the Department of Education together with the following information: (i) the location and area of the facilities or land, or both, to be leased; (ii) the value of the facilities or land, or both, to be leased; (iii) the name or names of the appraiser or appraisers; and (iv) the date of the appraisal, which shall not be more than six months prior to the date of final approval of the lease or lease-purchase agreement by the Department of Education;
- (3) Adding a provision requiring section -1606, Hawaii Revised Statutes, as contained in section 2 of S.B. No. 2446 or H.B. No. 3252 (Relating to the Recodification of the Education Statutes), as the case may be, to be amended to reflect the amendment of section 296-40.7, Hawaii Revised Statutes, in this bill, if S.B. No. 2446 or H.B. No. 3252 is passed by the Legislature in any form during this Regular Session of 1996, to reflect the renumbering, restructuring, and reorganization of chapters 296, 296C, 296D, 297, 297D, 298, 299, 300, and 301, Hawaii Revised Statutes; and
- (4) Making a technical, nonsubstantive amendment for purposes of style.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2145, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2145, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2135 (Majority) Ways and Means on S.B. No. 2208

The purpose of this bill is to authorize the Department of Accounting and General Services to establish, without regard to the civil service and compensation laws, five project manager positions dedicated to the school construction program.

Specifically this bill:

- (1) Allows the Department of Accounting and General Services to establish two project manager positions for the Oahu district and one project manager position for each neighbor island district;
- (2) Funds these project manager positions out of the state educational facilities improvement special fund, and then terminates them on June 30, 2000; and
- (3) Requires the Department of Accounting and General Services to submit an annual report to the Legislature regarding the hiring of the project managers and their success in expediting the completion of projects under the school construction program.

Your Committee finds that the creation of dedicated project manager positions within the Department of Accounting and General Services will help to expedite the completion of school construction projects by:

- (1) Improving communication and coordination between the Department of Education, private consultants, permitting agencies, and the Department of Accounting and General Services; and
- (2) Assigning day-to-day responsibility for the progress and status of a project to a specific individual rather than a faceless administrative entity (e.g., a division, branch, or section within the Department of Accounting and General Services).

Your Committee has amended this bill by:

- (1) Clarifying that two project manager positions may be established for the Honolulu, central, leeward, and windward departmental school districts; one project manager position may be established for the Maui departmental school district; one project manager position may be established for the Kauai departmental school district; and one project manager position may be established for the Hawaii departmental school district;
- (2) Adding a provision to limit the annual salary of these project managers to \$48,000;
- (3) Adding a provision to allow the state educational facilities improvement special fund to be used to fund not more than five project manager positions until June 30, 2000; and
- (4) Making technical, nonsubstantive changes for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2208, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2208, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, 1 (Liu). Excused, 4 (Fernandes Salling, Fukunaga, Solomon, Tanaka).

SCRep. 2136 Ways and Means on S.B. No. 2209

The purpose of this bill is to give the public library system flexibility in the redeployment and allocation of vacant staff positions and in the allocation of finances.

Your Committee finds that the Master Plan for Public Libraries approved in 1991 by the Board of Education ushered in a new decade of innovation in the public library system, beginning with the establishment of the State Library Innovation Model: Maximizing Employees and Revenues (SLIMMER). A second innovation arising out of SLIMMER is the concept of Self-Directed Work Teams (SDWT) which began in 1993-94. Since then, the state library system has developed a program to provide revenues from enhanced special services fees for such things as professional research and for borrowing best sellers. The library system has also sought private donations to supplement public funds. The overall focus has been to meet the library's clientele--the reading public's need for technical and recreational information.

Your Committee has amended this bill by deleting everything except section 2 of the bill relating to reallocation of vacant positions.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee 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 the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2137 Ways and Means on S.B. No. 2210

The purpose of this bill is make the state library system project, the State Library Innovation Model: Maximizing Employees and Revenues (SLIMMER) a permanent program.

Your Committee finds that the innovations established by the Master Plan for Public Libraries through project SLIMMER have worked exceptionally well. Library services have been enhanced and supplemental revenues from private donations have helped to maintain library hours for the public.

Today, one hundred per cent of its employees work in self-directed work teams. Through its enhanced fee structure, new fees for best sellers, customized research, videocassette rewinding and other services mean that earned revenues can be added to legislative appropriations. The library customer has benefited from the library's willingness to try new ideas and techniques despite cutbacks in general appropriations. Your Committee finds that this project should be allowed to continue indefinitely.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2210, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2138 Ways and Means on S.B. No. 2211

The purpose of this bill is to allow the Comptroller to initiate the next viable school construction project approved by the Board of Education and authorized by the Legislature from the supplemental project list, if the initiation of a project authorized by the Legislature from the priority list is delayed.

In addition, this bill:

- (1) Provides that the supplemental list project that is being initiated cannot exceed either the total cost or cash flow requirements of the priority list project that is being replaced;
- (2) Repeals the law allowing the state educational facilities improvement special fund to be used for those activities intended to eliminate the gap between the facility needs of schools and available resources; and
- (3) Repeals the law subjecting expenditures from the special fund to specific provisions of the (quarterly) allotment system (sections 37-31, and 37-33 through 37-40, Hawaii Revised Statutes).

Your Committee finds that this bill will facilitate the more timely expenditure of available capital improvement project funding by allowing projects that are stopped or delayed to be replaced with projects that are ready to be constructed.

Your Committee has amended this bill by:

- (1) Allowing the initiation of a supplemental list project if the construction (rather than the initiation) of a priority list project is delayed;

- (2) Adding a provision to define the term "construction" to mean the actual construction and building of a project; and
- (3) Making technical, nonsubstantive changes for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2211, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2211, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2139 Ways and Means on S.B. No. 2222

The purpose of this bill is to require adult community schools to initiate secondary education programs for youths who have been excepted from compulsory attendance or who have been deemed to be more appropriately placed in adult community schools to complete their high school graduation requirements.

In addition, this bill:

- (1) Allows youths who have been excepted from compulsory attendance or who have been deemed to be more appropriately placed in adult community schools, to attend an adult community school upon the request of the principal of a high school and with the approval of the high school's District Superintendent;
- (2) Requires adult community schools to provide basic elementary education programs, advanced elementary education programs, and secondary education programs, rather than allowing the schools to make these offerings contingent on the availability of resources and level of interest;
- (3) Allows adult community schools to charge tuition for adult students to finance their programs; requires the tuition to be set in accordance with the recommendations of the advisory council for adult and community education; grants tuition waivers to unemployed adults and indigent persons; requires adult students who receive tuition and fee waivers to provide documentation that they qualify for the waivers; and
- (4) Requires the Department of Education to transfer an unspecified amount of funds on a per pupil basis from the regular instruction program budget to the adult and community education program budget for high school students who are diverted from a traditional high school program to the adult and community education program.

Your Committee has amended this bill by:

- (1) Specifying the Department of Education is to transfer \$3,000 per student on an annual basis from the respective high school to the respective adult community school for high school students who are diverted from a traditional high school program to the adult and community education program;
- (2) Providing that the foregoing transfer is to apply only to regular high school students who are diverted from a traditional high school program to the adult and community education program and not to students who have voluntarily left the education system and later return;
- (3) Adding a provision requiring sections -534 and -536, Hawaii Revised Statutes, as contained in section 2 of S.B. No. 2446 or H.B. No. 3252 (Relating to the Recodification of the Education Statutes), as the case may be, to be amended to reflect the amendment of sections 301-2 and 301-4, Hawaii Revised Statutes, respectively, in this bill, if S.B. No. 2446 or H.B. No. 3252 is passed by the Legislature in any form during this Regular Session of 1996, to reflect the renumbering, restructuring, and reorganization of chapters 296, 296C, 296D, 297, 297D, 298, 299, 300, and 301, Hawaii Revised Statutes; and
- (4) Making technical, nonsubstantive changes for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2222, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2222, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2140 Ways and Means on S.B. No. 2543

The purpose of this bill is to transfer the statewide transition to work (school-to-work) system, including its officers, employees, records, and equipment, from the Department of Labor and Industrial Relations to the Department of Education.

Specifically, this bill:

- (1) Establishes a school-to-work transition program in the Department of Education;
- (2) Requires the school-to-work transition program to provide for the continued delivery of integrated services (which were formerly provided by the quick kokua program and career resource centers pursuant to section 373E-3,

Hawaii Revised Statutes) directed at helping students successfully complete transition from school to work, or to further their training and education; and

- (3) Allows the Department of Education to establish positions and hire necessary personnel for the school-to-work transition program without regard to the civil service and compensation laws.

Your Committee has amended this bill by:

- (1) Allowing the revisor of statutes to determine the appropriate placement of the foregoing provisions within the Hawaii Revised Statutes to reflect the renumbering, restructuring, and reorganization of chapters 296, 296C, 296D, 297, 297D, 298, 299, 300, and 301, Hawaii Revised Statutes, pursuant to S.B. No. 2446;
- (2) Repealing chapter 373E, Hawaii Revised Statutes, relating to the statewide transition to work (school-to-work) system in the Department of Labor and Industrial Relations;
- (3) Changing its effective date from upon approval to July 1, 1996 to provide for the smooth transfer of officers, employees, records, and equipment to the Department of Education; and
- (4) Making technical, nonsubstantive changes for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2543, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2543, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2141 Ways and Means on S.B. No. 2765

The purpose of this bill is to require all expenditures for the operation of intersession programs of year-round public schools to be made from a special fund consisting of tuition, fees, and other sources of money for the intersession programs.

Specifically, this bill changes the name of the "special summer school fund" to the "special summer school and intersession fund", and increases the scope of the special fund to include tuition, fees, and other sources of money for intersession program expenditures.

Your Committee finds that more schools are adopting single-track, year-round calendars and offering "intersession programs" as part of this scheduling initiative. An intersession is the period of time between regular instructional sessions used for vacations or voluntary supplementary programs for students or staff, or both. The Department of Education has made it clear that it cannot fund these intersession programs and has allowed schools to charge fees using the special summer school fund. The Department considers intersession days as summer vacation days that are distributed more evenly throughout a year-round education school calendar. Like summer school programs, intersession course offerings are not a part of the regular school program but are offered as voluntary, supplementary programs for families who wish to participate. This bill will make clear the distinction between "summer school" and year-round education "intersession" programs and allow the Department to establish rules and procedures for the accounting of intersession fees.

Your Committee has amended this bill by:

- (1) Adding two provisions to make conforming amendments to sections 36-27 and 36-30, Hawaii Revised Statutes; and
- (2) Adding a provision requiring section -1410, Hawaii Revised Statutes, as contained in section 2 of S.B. No. 2446 or H.B. No. 3252 (Relating to the Recodification of the Education Statutes), as the case may be, to be amended to reflect the amendment of section 298-3.5, Hawaii Revised Statutes, in this bill, if S.B. No. 2446 or H.B. No. 3252 is passed by the Legislature in any form during this Regular Session of 1996, to reflect the renumbering, restructuring, and reorganization of chapters 296, 296C, 296D, 297, 297D, 298, 299, 300, and 301, Hawaii Revised Statutes.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2765, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2765, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2142 Ways and Means on S.B. No. 2770

The purpose of this bill is to make an unspecified, emergency appropriation to the Department of Education for fiscal year 1995-1996 for school electricity payments.

This bill is recommended by the Governor for immediate passage in accordance with article VII, section 9, of the State Constitution.

Your Committee finds that the Department of Education is unable to meet its financial obligations for electrical service in fiscal year 1995-1996 without reducing or discontinuing educational services to students. To give the Department more

time to accurately calculate its electricity requirements from January 1, 1996 to June 30, 1996, and to give the Legislature more time to determine if the Department is able to meet its financial obligations for electrical service in fiscal year 1995-1996 without reducing or discontinuing educational services to students, your Committee has left the amount to be appropriated blank.

Your Committee has amended this bill by making technical, nonsubstantive changes for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2770, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2770, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2143 Ways and Means on S.B. No. 3020

The purpose of this bill is to repeal the obsolete (September 1, 1970) salary schedules for teachers and educational officers in the Department of Education.

In addition, this bill:

- (1) Requires teacher and educational officer salaries to be negotiated through collective bargaining agreements; and
- (2) Repeals the three classes of substitute teachers by establishing a single per diem rate for all substitute teachers based on the annual, entry step salary rate for class II teachers.

Your Committee has amended this bill by:

- (1) Adding a provision requiring sections -724 and -725, Hawaii Revised Statutes, as contained in section 2 of S.B. No. 2446 or H.B. No. 3252 (Relating to the Recodification of the Education Statutes), as the case may be, to be amended to reflect the amendment of sections 297-33 and 297-33.1, Hawaii Revised Statutes, respectively, in this bill, if S.B. No. 2446 or H.B. No. 3252 is passed by the Legislature in any form during this Regular Session of 1996, to reflect the renumbering, restructuring, and reorganization of chapters 296, 296C, 296D, 297, 297D, 298, 299, 300, and 301, Hawaii Revised Statutes;
- (2) Changing its effective date from "upon approval" to "July 1, 1996" to ensure that there will be a salary schedule in existence for substitute teachers through the end of the 1995-1996 school year; and
- (3) Making technical, nonsubstantive changes for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3020, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3020, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2144 Ways and Means on S.B. No. 3217

The purpose of this bill is to earmark all interest earnings of the state educational facilities improvement special fund toward the purchase of technology infrastructure, including modern data, voice, and video products.

To optimize their potential to succeed, your Committee finds that it is imperative that Hawaii's students be supplied with learning equipment based on the latest and most advanced technology available.

However, your Committee finds that many schools do not have the infrastructure in place to take advantage of the latest in computer technology, and therefore, has amended this bill to require the expenditure of not less than \$5,000,000 to set in place technology infrastructure.

It is your Committee's express intent that the moneys to set in place technology infrastructure shall not be used to purchase terminal equipment and software.

Your Committee has further amended this bill by changing the source of funding for the state educational facilities improvement special fund from "a portion of all general excise tax revenues" to "\$90,000,000 in general obligation bonds" for each fiscal year.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee 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 the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2145 Ways and Means on S.B. No. 2388

The purpose of this bill is to create a unified single entry point system for elderly and disabled persons to obtain access to, and obtain a full range of appropriate services from, the long-term care system in Hawaii.

Specifically, this bill requires the Department of Human Services to:

- (1) Design and develop this single entry point system of long-term care that includes both nursing home care and home- and community-based supports;
- (2) Convene and support an advisory committee comprised of public and private agencies and consumer groups to review and provide input in policy and program options for the single entry point system;
- (3) Accommodate both elderly and disabled adults, using a comprehensive range of long-term care services, including both nursing home care and home- and community-based supports;
- (4) Adopt a flexible generic approach to determine eligibility and to assess clients based on functional limitations;
- (5) Design a system that makes the most efficient use of resources;
- (6) Attempt to benefit the greatest number while reasonably accommodating individuals with extreme needs;
- (7) Develop a standardized functional assessment for the elderly and disabled;
- (8) Design a continuing review process to ensure that case management functions do not unnecessarily restrict access to services;
- (9) Develop a system whereby existing services can be placed in and accessed from a continuum of services;
- (10) Begin work on development of the single entry point system no later than two weeks after the effective date of this bill;
- (11) Report to the Governor and the Legislature no later than December 20, 1996 with a detailed plan for implementing the system; and
- (12) Clarify that the advisory committee's work shall not incur additional appropriations.

Your Committee has amended this bill to clarify in section 4 of the bill that the Department of Human Services is to report on plans for the organization of the single entry point system and not "the senior and disabled services division." Your Committee has also made technical, nonsubstantive amendments for the purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2388, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2388, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 2 (Bunda, Fernandes-Salling).

SCRep. 2146 Ways and Means on S.B. No. 2558

The purpose of this bill is to include the prevention of domestic and sexual violence and the protection and treatment of victims of domestic and sexual violence as responsibilities of the Department of Human Services.

In addition, this bill repeals the statute establishing the Judiciary's spouse and child abuse special account; increases the portion of the fees collected for certified copies of vital statistics certificates and marriage licenses that are to be deposited in the Department of Human Services' spouse and child abuse special account; and requires the Judiciary to transfer to the Department all funds in its control designated for victims of domestic violence, and specifies the percentage of those funds to be used for administrative purposes.

Your Committee finds that women in Hawaii are increasingly at risk for becoming victims of domestic and sexual violence, creating a serious public health problem. There is an urgent need to strengthen the State's commitment to the provision of services and programs designed for the protection of women who are the victims of domestic and sexual violence and their children, and to treat the perpetrators of such violence.

Your Committee further finds that research has shown that the public health approach is effective in reducing violence against women. This approach requires a multidisciplinary collaboration with human services, justice, and law enforcement. Currently, the Department of Human Services and the Department of Health are working in cooperation and in partnership with private agencies to address domestic and sexual violence in the State. Your Committee finds that this problem is so pervasive and complex as to require commitment by these two departments as well as the judicial branch of government. These departments and the Judiciary have already established a high level of expertise in this area, have demonstrated a strong commitment to make domestic violence prevention and treatment a high priority, and will be better able to coordinate effective programs with service providers.

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

- (1) Deleting sections 2 through 8 of the bill;

- (2) Adding two new sections to require the Department of Health and the Judiciary to establish and administer programs for the prevention of domestic and sexual violence and the protection and treatment of victims of domestic and sexual violence, as similarly required of the Department of Human Services under section 1; and
- (3) Renumbering the remaining sections.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee 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 the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2147 Ways and Means on S.B. No. 2712

The purpose of this bill is to make an emergency appropriation as permitted by article VII, section 9, of the state constitution, for child foster care payments by the Department of Human Services' Family and Adult Services Division.

A critical funding emergency exists. The foster care program will run out of the funds previously appropriated for this fiscal year before the year's end, leaving the Department unable to meet its obligation to provide foster board and board-related costs for children needing out-of-home care.

Your Committee finds that the State cannot abandon its protection of this extremely vulnerable group of children. Foster care services must continue to be provided. The appropriation, which will be made out of federal funds, will fulfill this obligation.

Your Committee has amended this bill by making technical, nonsubstantive amendments for purposes of style.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2712, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2712, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 2 (Bunda, Fernandes Salling).

SCRep. 2148 Ways and Means on S.B. No. 2713

The purpose of this bill is to enact certain welfare reforms and to reduce eligibility for general assistance for disabled persons from one year to six months.

Specifically, this bill:

- (1) Increases the asset disregard in the calculation of assistance payments from \$1,000 to \$5,000;
- (2) Requires the Director of Human Services to determine the assistance allowance for all assistance payments, and not just for the general assistance program, based on the total amount appropriated (among other relevant factors) and not on a percentage of the standard of need;
- (3) Regarding disabled persons between ages eighteen and sixty-five:
 - (A) Reduces eligibility for general assistance from not more than one year to not more than six months;
 - (B) Deletes the requirement that reevaluations for certification of mental and physical impairment be either annual or more frequent; and
 - (C) Deletes the Department's discretion to extend eligibility beyond one year pending determination of eligibility for the federal Supplemental Security Income program;
- (4) Redefines "children" as those who live only with their fathers or mothers or hanai parents, and not with grandparents, siblings, stepparents, uncles, aunts, first cousins, nephews, or nieces;
- (5) Deletes the provision limiting eligibility to not more than six months for general assistance for persons between ages eighteen and sixty-five whose primary diagnosis is substance abuse;
- (6) Requires the Department to adopt rules to determine requirements for categorical eligibility; and
- (7) In uncodified session law language:
 - (A) Prohibits disabled persons who are receiving assistance as of the effective date of the Act from receiving another six months of general assistance;
 - (B) Immediately terminates general assistance for those who have already received six months or more of general assistance as of the effective date of the Act; and
 - (C) Prohibits the Department from seeking repayment from persons who have received more than six months of general assistance as of the effective date of the Act.

Your Committee believes that the increased asset disregard will act as an incentive to encourage welfare recipients to work and eventually leave the welfare rolls.

Your Committee finds that the provisions amending section 346-71, Hawaii Revised Statutes, relating to the general assistance program (items (3) through (7), above) are contained in S.B. No. 2304, S.D. 1, which was reported out of your Committee at an earlier date. Accordingly, your Committee has amended this bill to delete section 3 of the bill amending section 346-71, Hawaii Revised Statutes (described in items (3) through (6), above), and 4 of the bill relating to restrictions on and termination of general assistance benefits (described in item (7), above).

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2713, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2713, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 2 (Bunda, Fernandes Salling).

SCRep. 2149 Ways and Means on S.B. No. 2717

The purpose of this bill is to repeal the Board of Human Services.

Your Committee agrees with the intent of this bill, and finds that board members may better serve the Department of Human Services by becoming members of one of the existing programmatic advisory committees that address substantive issues and provide community-based recommendations and input to the Director of Human Services.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2717 and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 2 (Bunda, Fernandes Salling).

SCRep. 2150 Ways and Means on S.B. No. 2719

The purpose of this bill is to appropriate an emergency authorization of \$96,037,955 to increase the federal ceiling for fiscal year 1995-1996 so that the Department of Human Services may use the additional federal funds that may be available under the new proposed block grant program.

These funds are needed to allow the department to continue to meet its obligations for the medicaid and Hawaii QUEST programs.

Your Committee finds that the State's poor economy has put more people on the Hawaii QUEST program. Although the department initially projected 110,000 recipients, the program now serves 156,000 people. Thus the fiscal demands are also increasing. With this emergency authorization, the department will be prepared to meet these demands.

Your Committee has amended this bill by making technical, nonsubstantive amendments.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2719, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. 2719, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2151 Ways and Means on S.B. No. 2797

The purpose of this bill is to exempt funds received from the federal Department of Agriculture for the special supplemental nutrition program for women, infants, and children (WIC) program from being deposited into the state treasury.

This bill, effective July 1, 1997, would enable the State to provide a new system of vendor payments to merchants accepting food stamps. Food stamps are technically vouchers that food stamp recipients redeem for groceries. Grocers then submit those vouchers to the WIC business office for payment. The current system of issuing checks from the state treasury to pay grocers is cumbersome and inefficient, with over 55,000 vouchers processed monthly. An improved system is currently in use in over thirty-five states which involves paying vendors by check or draft through the Federal Reserve Banking System with a direct deposit into the vendors' checking account.

Your Committee finds that exempting the deposit of WIC moneys into the state treasury will allow the implementation of this new and improved system of processing food stamps.

Your Committee has made technical, nonsubstantive changes for the purpose of style.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2797, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2797, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2152 Ways and Means on S.B. No. 2856

The purpose of this bill is to repeal chapter 581, Hawaii Revised Statutes, relating to the Office of Children and Youth (OCY) and to transfer all OCY functions, staff, appropriations, records, and equipment to the Office of the Governor.

Your Committee finds that the direct service functions of the OCY will be carried out by line agencies. Statements on behalf of the Governor indicate that only those positions needed to continue OCY's policy-related functions will be transferred to the Office of the Governor. Your Committee further finds that the proposed elimination of the OCY is part of a comprehensive reorganization to streamline the executive branch, reduce costs, and enhance efficiency. As such, it makes little sense, and has no real impact on reducing costs, to eliminate the functions but retain the positions and the concomitant costs.

Moreover, your Committee believes that, as the Governor intends to develop a multidisciplinary and integrated planning and policy unit within the Office of the Governor for facilitating cross-cutting social, economic, environmental, and intergovernmental policy development, any policy-related functions necessary with respect to children and youth should be handled within this unit, without the transfer of additional staff. Your Committee strongly believes that, in view of the seriousness of the budget crisis, any unnecessary, repetitive, or wasteful funding must be eliminated.

Accordingly, your Committee has amended this bill by deleting sections 2 and 3 of the bill, relating to the transfer of functions, staff, appropriations, records, and equipment of the OCY, and by renumbering the remaining section consecutively.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2856, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2856, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2153 Ways and Means on S.B. No. 2859

The purpose of this bill is to integrate elderly programs and services and to restructure and downsize the Office of the Governor by removing attached offices.

Specifically, this bill transfers both the functions and the personnel of the Executive Office on Aging from the Office of the Governor to the Department of Human Services. This bill amends section 349-2, Hawaii Revised Statutes, to:

- (1) Create an office on aging, as required by the federal Older Americans Act, within the Department of Human Services; and
- (2) Delete the provision creating the position of the director of the Executive Office on Aging.

This bill also transfers both the functions and the personnel of the Executive Office on Aging to the Department of Human Services.

Your Committee finds that this transfer will not only integrate the many programs and services that are now provided by both the Executive Office on Aging and the Department of Human Services, but also enable these programs and services to be coordinated and delivered in a more effective and efficient manner. However, your Committee believes that the transfer of personnel from the Executive Office on Aging to the Department of Human Services runs counter to the objective of restructuring and downsizing and that a transfer of the functions alone would be sufficient. Your Committee finds that the Department of Human Services is well capable of assuming the functions of the Executive Office on Aging.

Accordingly, your Committee has amended this bill to clarify that only the functions, and not the personnel, of the Executive Office on Aging are transferred to the Department of Human Services. Specifically, the amendments include:

- (1) Adding a new section 2 to the bill to amend the title of chapter 349, Hawaii Revised Statutes, to "Office on Aging Within the Department of Human Services";
- (2) In the renumbered section 3 of the bill that amends section 349-2, Hawaii Revised Statutes, deleting the word "executive" from the section title;
- (3) Adding a new section 4 to the bill that amends section 349-7, Hawaii Revised Statutes, relating to recognition of the Office on Aging as the responsible state agency, for purposes of clarification;
- (4) Adding a new section 5 to the bill to substitute, in section 321-22 and chapter 349, Hawaii Revised Statutes, the phrase "office on aging" wherever the phrase "executive office on aging" appears (this allows chapter 349, Hawaii Revised Statutes, to continue in operation under the Department of Human Services); and
- (5) Deleting the language in the renumbered section 7 of the bill that provides for the transfer of personnel so that only the functions of the Executive Office on Aging are transferred.

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

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee 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 the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2154 Ways and Means on S.B. No. 3218

The purpose of this bill is to appropriate matching state funds for home- and community-based medicaid services for persons with developmental disabilities.

Specifically, this bill appropriates \$1,500,000 as the State's share.

Your Committee has amended this bill to change the appropriated amount from \$1,500,000 to a blank amount for the purposes of continuing further discussion on this issue.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3218, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3218, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2155 Ways and Means on S.B. No. 2139

The purpose of this bill is to ensure that timely and adequate mental health care services are provided to the residents of the island of Hawaii.

Specifically, this bill authorizes the Department of Health to contract out mental health services in the county of Hawaii on a pilot project basis for three years, if no licensed resident psychiatrist can be hired. The bill also allows the Department to develop requests for proposals for provision of mental health services in Hawaii county to address client population needs for adults and children and monitor provider contracts. The bill further requires providers to form local Hawaii island advisory boards to ensure that community concerns are recognized.

Your Committee has amended this bill to delete the first paragraph in section 1 of the bill providing background information on the delivery of mental health services in the State, and by changing the effective date to July 1, 1996. Your Committee has also made technical, nonsubstantive amendments for the purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2139, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2139, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2156 Ways and Means on S.B. No. 2215

The purpose of this bill is to establish nonintervention guidelines for the Department of Health in its oversight of the State Planning Council on Developmental Disabilities ("council").

In particular, this bill:

- (1) Prohibits the Department of Health from interfering with the council's budget, personnel, or other activities, or the council's ability to serve as an advocate for persons with developmental disabilities. This noninterference section is to be repealed on June 30, 1997;
- (2) Clarifies the council's responsibilities regarding the deinstitutionalization of the Waimano Training School and Hospital;
- (3) Deletes language requiring the council to serve as a channel for complaints by consumers of services for the developmentally disabled, and to follow up on those complaints and take such action as may be warranted;
- (4) Requires the council to annually submit an analysis of any budget request affecting persons with developmental disabilities to the Governor and Legislature; and
- (5) Conforms statutory language with the preferred reference to "persons with developmental disabilities".

Your Committee agrees with the intent of this bill, and finds that the nonintervention guidelines established for the Department of Health in section 1 of the bill will help to resolve any potential conflicts of interest between the Department and the Council.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2215, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2157 Ways and Means on S.B. No. 2441

The purpose of this bill is to establish a system of community-based primary health care centers to address medically underserved populations in the State.

Specifically, this bill requires the Department of Health to facilitate the establishment of these centers throughout the State in areas designated as medically underserved, following community-based needs assessments. Qualifying existing private nonprofit health care centers are to be recognized as part of the system; where no centers exist, the Department is to work with existing public and private institutions, including the Hawaii State Primary Care Association, to develop these centers. The bill further requires the Department to examine, in order, a list of twenty-seven locations for health care access and needs. The bill also requires each center in the system to provide specific services. Finally, the bill requires standards for participation in the system to be the same as those for federally funded "329/330" community health care centers.

Your Committee believes that a system of community-based primary health care centers to address the needs of the medically underserved that does not compete with private providers will contribute towards a complete health care system in Hawaii.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2441, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2158 Ways and Means on S.B. No. 2662

The purpose of this bill is to require the Department of Health time to submit a plan to implement section 333F-2(c)(12), Hawaii Revised Statutes (relating to case management services for persons with developmental disabilities or mental retardation), by December 1, 1996.

The bill also postpones implementation of the plan until July 1, 1997. The bill also requires the Commission on Persons with Disabilities and the State Planning Council on Developmental Disabilities to submit to the Legislature no later than January 1, 1997, a joint response to the Department's plan.

Your Committee believes that there is a need for independently provided case management services for persons with developmental disabilities or mental retardation. However, your Committee believes that additional time is required to develop the infrastructure and implementation strategy of the case management system.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2662, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2159 Ways and Means on S.B. No. 2781

The purpose of this bill is to transfer the responsibility for life support personnel training from the Department of Health to the University of Hawaii.

Specifically, this bill requires the Department of Health to consult and coordinate with the University of Hawaii or other accredited colleges or professional organizations that provide emergency services training with regard to the training provided for basic life support personnel. This bill also amends Act 218, Session Laws of Hawaii 1995, relating to the state budget, to make various adjustments to the appropriations made for the operating expenses of the emergency medical services programs of Kapiolani Community College.

Your Committee finds that Kapiolani Community College has provided life support personnel training since 1985. Although official responsibility for the training will be transferred, the Department of Health will still be responsible for oversight and quality assurance of the training program.

Your Committee has amended this bill by deleting section 5 of this bill which related to the tenure and employment benefits of temporary faculty members in bargaining unit 07 and civil service employees in bargaining unit 03.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2781, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2781, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2160 Ways and Means on S.B. No. 2789

The purpose of this bill is to repeal various health statutes administered by the Department of Health that are now obsolete or unenforceable due to state budget reductions and the lack of funds.

Specifically, this housekeeping measure repeals the law on the California-Hawaii Cooperative Commission, and other laws relating to infectious and communicable diseases, mental illness, and the Department of Health, including the part relating to agent orange.

Your Committee has amended this measure by repealing chapter 321F, Hawaii Revised Statutes, dealing with the Office of the Aloha Health Corps. The repeal of this chapter was originally included in the administration's bill. No funding was ever provided for this program, which would have tended to only duplicate opportunities offered by the federal Peace Corps and VISTA programs.

Your Committee finds that it is necessary to eliminate programs that can no longer be supported under the State's reduced budget. Your Committee believes that many of the programs repealed in this bill have not been implemented, funded, or needed in several years.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2789, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2789, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2161 Ways and Means on S.B. No. 2792

The purpose of this bill is to comply with federal law by removing the Reproductive Rights Protection Committee from under the State Planning Council of Developmental Disabilities.

Your Committee finds that the State Planning Council is unable to provide staff support to the Committee due to the federal law which funds it. That law requires that the council carry out its designated mission only, and not be assigned to any other duties by the Department of Health. Your Committee finds that placement of the reproductive rights protection committee directly within the Department of Health is appropriate and necessary, and that this move is supported by the Department of Health.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2792, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2162 Ways and Means on S.B. No. 2795

The purpose of this bill is to appropriate emergency funds for the Department of Health's child and adolescent mental health program to prevent the reduction or discontinuance of payments for services to emotionally disturbed children and adolescents.

This bill appropriates a blank amount for fiscal year 1995-1996. Your Committee agrees with the need to fund the child and adolescent mental health program and agrees that the appropriated amount should remain undetermined for purposes of further discussion.

Your Committee has amended this bill by adding a new section 2 to the bill containing general fund expenditure ceiling language.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2795, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2795, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2163 Ways and Means on S.B. No. 3198

The purpose of this bill is to transfer the Hana Medical Center from the State to a Hana-based nonprofit health care organization to promote a community-based health program.

Your Committee finds that like most rural areas of this country, Hana's isolation from an urban center has made it difficult to recruit and retain quality medical care for its residents. Your Committee acknowledges that serious medical conditions will continue to require transporting patients to Wailuku, or even to Honolulu as necessary. But the State remains committed to ensuring that people in the areas served, including Keanae, Nahiku, Hana, Kipahulu, Kaupo and other areas on Maui's south and east side can receive quality emergency, outpatient, routine, and maintenance medical care on a regular, dependable basis. Your Committee is also concerned that this transfer does not shortchange the residents and the many tourists for whom the medical center serves as the first line of defense for medical care. Continuity of medical care by a reliable service agency is necessary for residents who have been living there for generations. A community-based health care organization means that all residents of the area shall have input into the nature of the transition and the resulting final organization.

These concerns explain the requirement for successful agreement and resolution of certain issues listed in this bill and the requirement for a report to the legislature before the 1997 legislative session if these issues cannot be resolved.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3198, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 8. Noes, none. Excused, 3 (Bunda, Fernandes Salling, Taniguchi).

SCRep. 2164 Ways and Means on S.B. No. 662

The purpose of this bill is to establish a state renaissance zone law to encourage economic development.

This bill requires the county and state to work together in designating and establishing a renaissance zone. A renaissance zone is a distinct geographic area between four hundred and five thousand acres that is designated by the authorities for up to fifteen years. Individual residents or businesses located within a renaissance zone are exempt from income and public service company taxation as well as taxation of banks and other financial institutions. Counties would also provide relief from real property taxes.

Your Committee is aware of the similarity of renaissance zones and enterprise zones but finds the renaissance zones to be more encompassing and therefore offer more economic development opportunities. Your Committee has amended this bill by increasing the allowable number of designated zones within the State from three to five, and by making other technical, nonsubstantive changes.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 662, S.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 662, S.D. 3.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2165 Ways and Means on S.B. No. 667

The purpose of this bill is to appropriate money to strengthen the competitive position of Hawaii's ocean research and development industry nationally and internationally and to generate needed revenues for Hawaii's economy.

This bill appropriates \$60,000 for fiscal year 1996-1997 to increase the marketing and promotional activities of the Department of Business, Economic Development, and Tourism's Ocean Resources Branch with special emphasis on initiatives to expand Hawaii's market presence in the Asia-Pacific region.

Your Committee supports the intent of this bill and has amended it to reflect a blank appropriation amount for the purposes of further discussion, and by making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 667, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 667, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2166 Ways and Means on S.B. No. 2238

The purpose of this bill is to appropriate \$100,000 to initiate the planning of an international ocean floating all-natural clean energy power conference.

The funds appropriated for this purpose may be matched by contributions from private sources or international governments, or both. The conference would address the need for renewable energy which is in great demand both in Hawaii and the rest of the world. Hawaii's geographic location makes it the perfect site to host a conference to foster and stimulate an exchange of ideas and technology on clean energy.

Your Committee finds that this is an important issue and has amended this bill by replacing the specific dollar amount with a blank amount to encourage further discussion on these issues.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2238, S.D. 1, as amended herein, and recommends its adoption in the form attached hereto as S.B. No. 2238, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2167 Ways and Means on S.B. No. 2402

The purpose of this bill is to authorize the issuance of special purpose revenue bonds to assist Ecogen Hawaii, L.P., a Delaware limited partnership, in the construction of a cogeneration power plant that will sell the electrical power it produces to the Hawaii Electric Light Company, Inc.

Your Committee finds that under article VII, section 12 of the Hawaii state constitution, the Legislature may authorize the issuance of special purpose revenue bonds to assist manufacturing, processing, or industrial enterprises serving the general public. The sixty megawatt cogeneration power plant being planned in Hamakua by Ecogen Hawaii, L.P. will provide reliable electrical power and various other economic benefits to the people of the island of Hawaii. The power generated by the facility will be sold to the Hawaii Electric Light Company, Inc. for distribution to the public. Your Committee finds that this project is consistent with the State's intent to encourage the development of energy projects that make electricity available to the general public.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2402, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2168 Ways and Means on S.B. No. 2408

The purpose of this bill is to appropriate funds to support the Hawaii chapter of the Pacific Congress on Marine Science and Technology ("PACON International").

Your Committee finds that PACON International, a Hawaii-based program whose primary activity is to sponsor a major international ocean science and technology meeting every two years, provides valuable support for international and local programs in these areas. In providing a forum for marine science and technology, PACON International brings together the leading scientists, engineers, and educators from around the world to compare the latest technological breakthroughs, share affordable technologies with smaller nations, and confront the assault on the marine environment. Your Committee finds that funding this program will provide numerous benefits to the State, private industry, and the nation.

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.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2408, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2408, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2169 Ways and Means on S.B. No. 2708

The purpose of this bill is to make an emergency appropriation of \$66,500 for fiscal year 1995-1996 from the Hawaii film facility special fund, commerce and industry (BED 102).

Your Committee believes that this emergency special fund appropriation is necessary to facilitate the appropriate implementation of the Hawaii film studio program for fiscal year 1995-1996. The appropriation reflects additional available receipts and an attendant commitment of increased program funding collateral to the receipt of revenues and is in addition to the operating appropriations made for the program by Act 218, Session Laws of Hawaii 1995.

Your Committee has amended this bill by making technical, nonsubstantive amendments for purposes of style.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2708, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2708, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2170 Ways and Means on S.B. No. 3108

The purpose of this bill is to dissolve the governing board of the Clean Hawaii Center and authorize the Department of Health to assign committees to handle specific recycling and marketing issues.

The Legislature established ambitious waste reduction goals in 1991 to extend the life of our landfills and to establish a comprehensive integrated solid waste plan for the State. In 1994, the State established the Clean Hawaii Center to affirm the State's desire to work in partnership with business and develop and expand commercial markets for recyclable materials and recycled content products, and facilitate recycling and environmental business and technology development.

Regrettably, while waste diversion is still a desirable goal, the lack of financial, political, and administrative support will not allow them to be reached at this time. A more realistic framework is necessary to achieve the goals that are obtainable with the more efficient use of state resources. Your Committee finds that dissolution of the governing board of the Clean Hawaii Center will save administrative and financial overhead that could be applied to program operations.

Your Committee has amended the bill by deleting the Clean Hawaii Center staff position, changing the purpose section to reflect this fact, and inserting the correct reference to Act 324, Session Laws of Hawaii 1991.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3108, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3108, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2171 Ways and Means on S.B. No. 3240

The purpose of this bill is to expand the scope of businesses authorized to operate in state enterprise zones.

This bill includes retail sales by a producer of agricultural products from a temporary roadside stand and those engaged in the construction industry in counties with populations of less than 100,000 people as eligible businesses under the enterprise zone law. This bill also limits the benefits of the enterprise zone law to agricultural producers and contractors in counties with populations of more than 100,000 people can take to only the business income tax credit over seven years. It further limits the benefits by repealing the provisions one year after the effective date.

Your Committee believes that enterprise zones may provide unfair advantages for new businesses. Therefore, your Committee has amended this bill to require that a qualified business shall have been licensed under the general excise tax law (chapter 237, Hawaii Revised Statutes) before the effective date of the Act.

Your Committee has also changed the effective date of this bill to July 1, 1996.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3240, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3240, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2172 Ways and Means on S.B. No. 3262

The purpose of this bill is to supplement existing loan programs to provide additional relief to businesses in counties with populations of less than 100,000.

The counties with smaller populations have limited resources with which to recover from catastrophic natural disasters. Small businesses in those counties are particularly handicapped. This bill authorizes the Department of Business, Economic Development, and Tourism to make loans to business concerns in counties with populations of less than 100,000 that are unable to obtain loans from the Small Business Administration. The loans carry a three per cent interest rate and are not subject to the restrictions regulating other loans in the capital loan program. This additional aid is only effective for one year.

Your Committee has changed the effective date of this bill to July 1, 1996.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3262, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3262, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2173 Ways and Means on S.B. No. 2074

The purpose of this bill is to appropriate funds for the Kauai Beautification Project.

Specifically, this bill appropriates funds out of the state highway special fund and federal funds from the Intermodal Surface Transportation Efficiency Act. Matching funds from the private sector are anticipated.

Your Committee finds that funds are needed for planning and design, construction, and labor and materials. The project will provide landscaping and irrigation improvements to areas close to Lihue Airport and along the roadways and highways leading to the airport. These areas near the airport provide tourists with their first and last impressions of the island. Your Committee believes that the project will improve the appearance of these areas that due to the devastation wrought by Hurricane Iniki do not fairly exemplify the spectacular beauty of Kauai.

Your Committee has amended this bill by changing the appropriation amounts to blank amounts and by making technical, nonsubstantive amendments.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2074, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2074, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2174 Ways and Means on S.B. No. 2088

The purpose of this bill is to increase the number of years contenders for state contracts must file state tax returns and pay state taxes to qualify for the procurement preference provision of the state procurement code.

Your Committee finds that current law entitles any bidder who is current on state tax payments over the preceding two year period (four years in the case of public works contracts) to a contract award preference if the bid amount does not exceed, by more than five per cent, the bid of any competing bidder who is in arrears. Firms who consistently pay their taxes to the State are often at a disadvantage to those firms that withhold their payments. This bill will strengthen the State's procurement standards by allowing only those firms who have diligently paid state taxes for four successive years (and eight years in the case of public works contracts) to qualify for the preference benefits provided under the law.

Your Committee has amended this bill to change the amount of the contract award preference to fifteen per cent of the bid amount.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2088, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2088, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2175 Ways and Means on S.B. No. 2108

The purpose of this bill is to provide for the review of administrative agency rules by the Joint Legislative Management Committee ("Committee").

In particular, this bill allows any group of one hundred or more registered voters who have a substantial interest in a rule, or any person who may be directly, substantially, and adversely affected by the application of a rule, to file an application for review with the co-chairpersons of the Committee, explaining why the rule, in the opinion of the applicant, is inappropriate or unnecessary, and recommending proposed changes in the rule or the statute which the rule implements. The bill establishes criteria under which the Committee is to review the rule, including whether the rule is consistent with and necessary to the intent of the statute which the rule implements, and whether the effects of the rule are reasonable, including its benefits and costs, and establishes provisions for Committee recommendations for legislative action.

Your Committee agrees with the intent of this bill, which gives the legislative branch additional oversight over agency rulemaking to ensure that agencies are complying with the intent of the Legislature in adopting rules to implement statutes enacted by the Legislature.

Your Committee finds that several executive agencies have mistakenly interpreted the rulemaking process to the effect that where a discrepancy exists between a statute and an agency rule, the rule will supersede the statute. This is contrary to established case law. The purpose of an administrative rule is to effectuate the legislative intent in enacting a statute; it is not the duty or function of the agency to create new law.

Your Committee further finds that it is a fundamental proposition of law that administrative agency rules may not exceed the scope of statutory authority conferring the power to adopt those rules. For example, the United States Supreme Court has stated that "[i]t is axiomatic that an administrative agency's power to promulgate legislative regulations is limited to the authority delegated by Congress." Bowen v. Georgetown University Hospital, 488 U.S. 204, 208 (1988). Similarly, the Hawaii supreme court has declared that "[a] public administrative agency possesses only such rule-making authority as is delegated to it by the state legislature and may only exercise this power within the framework of the statute under which it is conferred." Stop H-3 Association v. State of Hawaii, 68 Haw. 154, 161 (1985) (citations omitted). The Court also stated that rules "which exceed the scope of the statutory enactment they were devised to implement are invalid and must be struck down." Id.; see also cases cited under 2 Am. Jur. 2d "Administrative Law" §152 (1994).

Your Committee has therefore amended this bill by amending the Hawaii Administrative Procedure Act to expressly prohibit agencies from exceeding the scope of the substantive statutory authority conferring the power to adopt rules. Your Committee has further amended the bill by making technical, nonsubstantive amendments for the purposes of style and consistency.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2108, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2108, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2176 Ways and Means on S.B. No. 2157

The purpose of this bill, as received, is to authorize the issuance of general obligation bonds in the sum of \$700,000 and to make an appropriation of the same sum for fiscal year 1996-1997, for the plans and design of a new police headquarters/civil defense emergency operating center for the county of Kauai.

Your Committee finds that the current Lihue facility was built in 1953 and served as a district court and police station. Unfortunately, the building is outdated, too small for current uses, and in need of serious repair. Out of necessity, files

and equipment are stored in hallways, and four or five staff members are assigned to office areas that should accommodate no more than one or two employees. There is no room available to install a much needed computer system and crime lab. The holding cells are in a serious state of deterioration. Because there are no isolated restroom facilities, the public, police officers and staff, and prisoners all must share the same restrooms. Furthermore, there is inadequate parking and severe traffic congestion around the building.

Your Committee further finds that Kauai county estimates a \$7,500,000 operating deficit this fiscal year. The state assistance provided by this measure is therefore greatly needed.

Your Committee has amended this bill by changing the amount appropriated to an unspecified sum to facilitate continuing discussion on this matter, and by making a technical, nonsubstantive amendment.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2157, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2157, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2177 Ways and Means on S.B. No. 2434

The purpose of this bill is to authorize the Director of Finance of each county to enter into contracts with motor vehicle rental companies for the registration of new motor vehicles.

Your Committee finds that the respective directors of finance are currently permitted to enter into contracts with new car dealerships for registration of new motor vehicles. This amendment will add rental companies and will result in faster issuance of license plates and registration certificates so that rental cars will be available quickly and efficiently. This type of dealer-government partnership program is already available in nine other states, including Connecticut, California, Florida, New Mexico, Oregon, Oklahoma, Tennessee, Virginia, and Washington, and your Committee finds that such a partnership is worthy of implementation in Hawaii.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2434 and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2178 Ways and Means on S.B. No. 2583

The purpose of this bill is to require each executive and administrative department or office to conduct a comprehensive evaluation of rules adopted by that department or office at least once every five years.

Your Committee finds that rules adopted by state agencies have been annually increasing in number and complexity, thereby significantly adding to the costs and delays for individuals and businesses in Hawaii. Your Committee finds that this bill will help to reduce the growing regulatory burden on state residents by reducing and simplifying government regulations, and will assist the State in its ongoing efforts to streamline government functions.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2583, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2179 Ways and Means on S.B. No. 2824

The purpose of this bill is to expand the definition of "professional services" under the state Procurement Code to include "public finance bond underwriting" and "public finance bond investment banking".

Your Committee finds that this bill will streamline the procurement process for the issuance of bonds by the State and the counties. Under current law, underwriters are selected through a request for proposal process. This is a time consuming process which impacts the market accessibility and ultimately the pricing of bonds. This bill will alleviate the problem by allowing the establishment of a list of qualified firms that could be selected to serve as underwriters.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2824, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2180 Ways and Means on S.B. No. 2894

The purpose of this bill is to require the Department of Transportation to regulate the transportation of infectious and medical wastes in the State. This bill also establishes standards and prohibitions with respect to the transportation and shipment of these wastes.

Your Committee finds that although the Department of Transportation regulates the shipment of hazardous materials and hazardous wastes, the Department's authority does not extend to the shipment of explosives within the State. Due to the catastrophic damage that may be caused by these materials during their shipment, your Committee finds that it is imperative that explosives be a part of the regulatory focus of the Department.

Your Committee finds that the urgency of the foregoing problem currently outweighs the need to regulate medical and infectious waste transportation in the State. In this regard, your Committee has amended this measure by deleting its contents and inserting a provision directing the Department of Transportation to regulate the transportation of explosives in the State.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2894, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2894, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2181 Ways and Means on S.B. No. 2913

The purpose of this bill is to require tax compliance by persons contracting with the State before and during the term of such contract.

The law presently requires contractors to obtain a tax clearance from the Department of Taxation stating that all tax liabilities are paid before final settlement on a contract can be completed. This bill adds requirements that a tax clearance be obtained before a contractor may be eligible to enter into a contract, and requires the assignment of progress and final payments due to delinquent contractors to the department or Internal Revenue Service during the term and at the end of a contract.

Requiring tax compliance by contractors before any state or county agency enters into and during a contract will ensure that the State is not paying out funds to a party that has an outstanding tax liability to the State.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2913 and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2182 Ways and Means on S.B. No. 2999

The purpose of this bill is to require the Director of Transportation to provide for undergrounding utility facilities in the construction of all new federal-aid highways and the improvements to existing federal-aid highways.

This requirement is subject to a determination that federal funds are available for such undergrounding. Furthermore, the Director may make exceptions to the requirement under certain specified conditions.

Your Committee finds that, over the past three years, traffic accidents involving utility poles have averaged eight hundred fifty-five and traffic fatalities involving utility poles have averaged twenty. Accordingly, your Committee believes that undergrounding utility facilities would improve public safety and increase property values.

This bill is similar to S.B. No. 853, S.D. 1, H.D. 1, C.D. 1, which was passed by the Legislature in 1995, but vetoed by the Governor. However, your Committee notes that the present bill has previously been amended to address the concerns expressed by the Governor in his veto message.

Your Committee has amended this bill by:

- (1) Clarifying that undergrounding should be done on federal-aid highways when federal funds are available to cover the cost difference between underground and overhead facilities; and
- (2) Making a number of technical, nonsubstantive changes for purposes of style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2999, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2999, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2183 Ways and Means on S.B. No. 3232

The purpose of this bill, as received by your Committee, is to establish a two-year commission on redesign of state government services to develop an action plan to implement the recommendations of the 1993 interim commission on government redesign.

Your Committee finds that the recent fiscal crisis faced by state government has precipitated an examination of the responsibilities of state government as well as an evaluation of the efficiency and effectiveness with which government services are provided. Your Committee further finds that government redesign efforts, which began with the 1993 interim commission, should be carried forward as part of this process of reevaluation of state government. Your Committee further believes that the 1993 interim commission provided sufficient direction regarding certain government policy and services, so that redesign efforts can be implemented immediately without further review.

Thus, upon further consideration, your Committee has amended this measure by deleting its contents and inserting therefor the following provisions:

- (1) Clear legislative intent that the reorganization of state government shall commence upon the effective date of the Act;
- (2) Guiding principles for the reorganization which include focusing on: identifying needs and strategies for service delivery; providing direct services oriented on public health and safety; allowing the private sector to drive the economy; merging smaller departments with larger departments to take advantage of economies of scale; eliminating obsolete and duplicative services; and assigning large offices to departments and not the office of the governor;
- (3) Beginning with the 1996-1997 fiscal year, mandating the governor to formulate a strategy to abolish the departments of business, economic development, and tourism and human resource development for implementation in the 1997-1998 fiscal year, and providing parameters for the downsizing, consolidation, or transfer of programs, services, and staffing;
- (4) Reassigning, upon approval of the Act, the office of state planning to be administratively attached to the department of commerce and consumer affairs and renaming it the office of planning; and
- (5) Conforming amendments to the Hawaii Revised Statutes to abolish the respective departments and transfer certain functions.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3232, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3232, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2184 Ways and Means on S.B. No. 2437

The purpose of this bill is to repeal the requirement that the insurance commissioner approve plans for recoupment by each member of the property and casualty guarantee association.

As amended, the purpose of this bill is to amend the laws relating to the insurance premium tax to benefit those insurance companies who employ Hawaii residents and who are subject to the taxes imposed as an employer in the State. Your Committee has accomplished this by removing the entire contents of the bill and substituting new provisions to accomplish this purpose. The first adds a new section providing for a credit against the tax imposed on gross premiums for life insurance. The credit amounts to fifteen per cent of employee salaries exclusive of commissions paid in the State of Hawaii. The credit is limited to sixty-five per cent of the tax due.

The second provision increases the rate of the tax from 2.75 per cent to 3.197 per cent. For those insurance companies with resident employees the increase in rate will be more than offset by the credit, and thus will result in a lower insurance premium tax liability.

The third provision your Committee has added repeals the one per cent insurance premium tax credit to facilitate regulatory oversight. This credit duplicates, in part, the credit established in this bill.

Your Committee has also amended this bill to take effect on July 1, 1996.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2437, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2437, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2185 Ways and Means on S.B. No. 2611

The purpose of this bill is to establish an interstate insurance receivership compact.

Specifically, the purposes of this interstate compact are as follows:

- (1) To promote, develop, and facilitate orderly, efficient, cost-effective, and uniform insurer receivership laws and operations;
- (2) To coordinate interaction between insurer receivership and guaranty association operations;
- (3) To create the interstate insurance receivership commission; and
- (4) To perform these and such other related functions as may be consistent with the state regulation of the business of insurance pursuant to the federal McCarran-Ferguson Act.

Your Committee is aware that insurance regulation is entrusted to the states by the federal constitution, and that not even federal antitrust statutes apply to certain insurance practices such as ratemaking. Your Committee finds, however, that the interstate complexity of the nation's insurance industry may not be entirely conducive to state-by-state piecemeal regulation. This is true in critical situations such as insurer insolvencies and in cases where a state unwittingly nurses protectionist biases that work against the best interests of the consumers of that state.

Your Committee believes that the creation of an interstate "super-regulator" for insurer insolvencies provides uniformity in handling potentially complex receivership matters, places compacting states on a more equal footing with the nation's insurance industry, and serves the spirit of interstate commerce in the absence of a federal regulator.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2611 and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2186 Ways and Means on S.B. No. 2723

The purpose of this bill is to authorize the establishment of limited liability companies in this State.

Your Committee finds that a limited liability company is a hybrid business entity that offers, when properly structured, the limited liability protection of a corporation together with the "pass-through" tax benefits of a partnership. Although S corporations and limited partnerships, to a certain extent, provide limited liability protection and pass-through income tax treatment for their shareholders or partners, the limited liability company enjoys several advantages over these entities.

For instance, section 1361 of the Internal Revenue Code imposes certain restrictions on an S corporation that make it an inappropriate entity for some businesses. These restrictions include that an S corporation: may not have more than thirty-five shareholders; may not have non-resident aliens as shareholders; may not own interests in corporate subsidiaries that would render it a member of an affiliated group; and may not issue more than one class of stock. In addition, with the exception of estates and certain trusts, only individuals may be shareholders of an S corporation. None of these somewhat burdensome and restrictive requirements applies to a limited liability company.

The limited liability company also has operational and tax advantages over the limited partnership. First, the members of a limited liability company generally may participate in the daily operations of the company without incurring unlimited liability. Limited partners, on the other hand, who actively participate in the daily operations of the limited partnership may be subject to unlimited liability for all of the partnership's obligations. Second, pass-through income and losses for members of a limited liability company are treated for federal income tax purposes as "active" income and losses, whereas the income and losses of a limited partner are treated as "passive" income and losses.

Your Committee further finds that, in view of the beneficial advantages the limited liability form of business organization offers, it would be attractive to a number of businesses and would be especially adaptable and of significant benefit to small and medium-sized businesses, which are the predominant enterprise in Hawaii. However, because Hawaii is currently the only state in the nation whose laws do not permit the formation of limited liability companies, the State's small and medium-sized businesses are being put at a severe competitive disadvantage. Your Committee strongly believes that, particularly in view of the State's flagging economy and the minimal growth predicted in state revenues, any measures that may be taken to improve the State's business climate and encourage business development within the State are necessary and desirable, not only for businesses and individuals immediately affected, but for the economic well-being of the entire State.

Your Committee has amended this bill as follows:

- (1) To correct two internal cross references: changing "section -108" to "section -110" on page 90, line 16; and changing "section -111(b)" to "section -110(b)" on page 94, line 10;
- (2) To clarify the reference at section -1006(b) to the office where service of process may be made when a proper agent has not been appointed and maintained as required under section -107;
- (3) To correctly state existing statutory language; and
- (4) To correct punctuation.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee 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 the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2187 Ways and Means on S.B. No. 2726

The purpose of this bill is to clarify certain provisions of the code of financial institutions, to increase certain fees, and to deposit certain costs and fines into the financial institution examiners' revolving fund, which supports the office of the Commissioner of Financial Institutions, rather than into the general fund.

Specifically, this bill:

- (1) Increases from \$30 to \$50 the foreign lender statement registration and annual renewal fee and specifies that all fees and charges assessed against foreign lenders are to be deposited into the financial institution examiners' revolving fund;
- (2) Clarifies that annual fees levied on financial institutions for each office and branch office will be imposed only on those institutions that are subject to examination by the Commissioner, and imposes fees on institutions' agencies as well;
- (3) Specifies that administrative costs, incurred in the administration of emergency orders, that are assessed on financial institutions are to be deposited into the financial institution examiners' revolving fund;
- (4) Deposits all administrative fines assessed under the code of financial institutions into the financial institution examiners' revolving fund rather than the general fund;
- (5) Clarifies that when considering applications to acquire a failing Hawaii financial institution, foreign financial institutions or their foreign-based holding companies, whose operations are not principally conducted in Hawaii or a qualifying state, will not be given preference over United States financial institutions or their holding companies; and
- (6) Clarifies that a small Hawaii depository institution is exempt from certain annual reporting requirements.

Your Committee believes that the clarification of certain provisions of the code of financial institutions is necessary and that the office of the Commissioner of Financial Institutions should be further supported by having certain costs and fines deposited into the financial institution examiners' revolving fund.

Your Committee has made technical, nonsubstantive amendments for the purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2726, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2726, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2188 Ways and Means on S.B. No. 2730

The purpose of this bill is to update business registration fees in order to modernize the operations of the Business Registration Division of the Department of Commerce and Consumer Affairs.

Specifically, this bill raises various filing and processing fees for corporate, partnership, trademark, franchise investment, and securities documents.

Your Committee finds that updating registration fees is long overdue. No comprehensive fee reform has been accomplished since 1985. In the meantime, the division has been faced with problems of outmoded computer and phone systems, increased workload, and understaffing. These problems hamper the division's ability to provide timely and efficient services to the business community, and to foster a prosperous and healthy business climate. However, due to the State's budgetary crisis, funding to solve the division's administrative difficulties must come from new sources of revenues. Increasing fees is a viable means to address the needs of the Business Registration Division and the business community it serves.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2730, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2189 Ways and Means on S.B. No. 2733

The purpose of this bill is to eliminate the requirement for monthly tax payments, clarify the penalties for late filings and to require insurers and surplus brokers to pay premium taxes on a quarterly basis.

The elimination of the monthly premium tax payments will streamline the processing of and result in a large time savings for the examination branch of the Insurance Division of the Department of Commerce and Consumer Affairs. The system of quarterly payments has already been adopted in most other states.

The clarification of the fines for failure to file or pay the taxes eliminates a loophole that has been used by insurance companies to avoid any penalty for failure to comply with reporting and payment laws. Additionally, the increase in fines makes the penalties consistent with other penalty provisions in the Insurance Code.

Imposing similar amendments on surplus lines brokers brings uniformity in treatment to the range of insurance companies.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2733, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2190 Ways and Means on S.B. No. 2755

The purpose of this bill is to allow the Director of Commerce and Consumer Affairs to establish a trust fund for the purpose of administering fees and costs associated with the state certified arbitration program.

Your Committee finds that the state certified arbitration program ("program"), which was established under the motor vehicle express warranty enforcement law, handles consumer-manufacturer disputes of new motor vehicles deemed to be "lemons". The Department of Commerce and Consumer Affairs, which has been administering the program since September, 1995, due to lack of interest in the private sector, has been using a temporary clearing account to handle the fiscal administration of the program, since the law establishing the program did not provide a mechanism to hold the fees paid by the parties to an arbitration proceeding during the course of the proceedings.

Your Committee finds, however, that this account was not established to take into consideration the needs of the program, since that account is primarily used to collect and disburse funds for various short-term projects which ultimately result in a zero fund balance. The program, however, is not a short-term project, nor have the fees and costs associated with the program resulted in a zero fund balance. Your Committee finds that this administration bill is necessary to provide for the creation of a new trust fund for the program's administration to meet the intent and implementation needs of the program.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2755, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2191 Ways and Means on S.B. No. 2756

The purpose of this bill is to conform the insurer insolvency statutes to recent interpretations of the federal bankruptcy laws made by the United States Supreme Court.

Specifically, this bill restructures the priority of distribution of claims against an insolvent insurer's estate to accord with the recent Supreme Court opinion in Department of the Treasury v. Fabe.

Under current state law, the priority of distribution for claims against an estate is set out as follows:

- (1) Administrative expenses;
- (2) Expenses of the guaranty fund;
- (3) Employees' compensation;
- (4) Policy claims;
- (5) Claims of general creditors;
- (6) Claims of the federal, state, and local governments;
- (7) Late claims;
- (8) Surplus or contribution notes; and
- (9) Shareholders' claims.

Under the new state law, the priority of distribution will be as follows:

- (1) Administrative expenses, including expenses of the guaranty fund;
- (2) Policy claims;
- (3) Claims of the federal government;

- (4) Employees' compensation;
- (5) Claims of general creditors;
- (6) Claims of state and local governments;
- (7) Late claims;
- (8) Surplus or contribution notes; and
- (9) Shareholders' claims.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2756, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2192 Ways and Means on S.B. No. 2758

The purpose of this bill is to supplement the laws governing mutual benefit societies with new provisions on insolvency protection and supervision.

Specifically, this bill adds new provisions to the laws relating to mutual benefit societies that are substantially identical to provisions on insolvency protection and supervision found in the laws relating to health maintenance organizations. In particular, these new provisions are modeled exactly on sections 432D-8, 432D-9, 432D-15, and 432D-16, Hawaii Revised Statutes.

Your Committee finds that health care services and reimbursement for those services are currently offered through a variety of insurance-like entities. Indeed, the traditional accident and sickness insurers appear to occupy a smaller share of the local market than entities like the mutual benefit societies and the health maintenance organizations. The insolvency safeguards that are presently in place for insurance companies serve little practical effect if most consumers in the State are covered by other means.

The Health Maintenance Organization Act was enacted in 1995 with insolvency provisions included. Laws on mutual benefit societies, on the other hand, have never been amended to include such provisions. This measure ensures that consumers of services provided by mutual benefit societies are afforded a similar amount of protection against insolvencies that is currently enjoyed by consumers of health maintenance organizations.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2758, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2193 Ways and Means on S.B. No. 2912

The purpose of this bill is to encourage tax compliance by licensed contractors.

This bill authorizes the contractor's license board to revoke, suspend, limit, or refuse to renew a contractor's license for failure to pay delinquent general excise taxes, interest, or penalties.

The Department of Taxation reports that licensed contractors are more than \$3,700,000 in arrears of general excise taxes. While the majority of contractors comply with the tax laws, there is still a serious collection problem with those that do not.

Your Committee finds that this bill provides an incentive for contractors to keep their tax obligations current and will not affect those contractors who are already in compliance. This bill also gives the Department of Taxation another tool to use in the collection of revenues that would benefit the State's fiscal situation.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2912 and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2194 Ways and Means on S.B. No. 2917

The purpose of this bill is to repeal the tax credit to facilitate regulatory oversight of insurance companies.

This credit was enacted to encourage insurance companies to engage in business practices that are conducive to regulation. The legislature found that the public interest would be served by encouraging insurance companies to provide

better service to their customers through more convenient accessible service centers staffed by employees residing in the community. The credit is based on the personnel and records maintained within the State.

Your Committee finds at this time, that the repeal of the credit promotes fairness and equity among insurers. The public interest today would best be served by recouping the revenue loss on the maintenance of the credit which is estimated at approximately \$5,000,000 to \$6,000,000.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2917 and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2195 Ways and Means on S.B. No. 3052

The purpose of this bill is to clarify state policy regarding the regulation and licensing of professions and vocations.

In particular, this bill amends state policy:

- (1) To require regulation in the form of full licensure and other restrictions when the health, safety, or welfare of the consumer may be jeopardized by the nature of the service offered, rather than when reasonably necessary to protect consumers;
- (2) By deleting the requirement that regulations be imposed to protect consumers who are at a disadvantage in choosing or relying on the provider of a service;
- (3) To provide that regulation which artificially increases the costs to the consumer is to be avoided except in those cases where the Legislature determines the cost is exceeded by the potential danger to the consumer;
- (4) To require that regulations be eliminated when the Legislature determines they have no further benefits to consumers, and deleting language requiring the regulations to be outweighed by their costs to taxpayers; and
- (5) To require the imposition of fees for regulation and licensure of all professions and vocations, provided that the aggregate of the fees imposed for any given program is not less than the full cost of administering that program.

Your Committee agrees with the intent of this bill, and, in particular, the provision relating to fees. Your Committee notes that pursuant to section 26-9(l), Hawaii Revised Statutes, effective July 1, 1994, the fees collected by the Department of Commerce and Consumer Affairs' Professional and Vocational Licensing Division are deposited into the compliance resolution fund under section 26-9(o), Hawaii Revised Statutes. Since that division is now self-sufficient and no longer receives allocated funds from the general fund, it is necessary that the division be allowed to recover the full costs of administering programs from licensing fees.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3052 and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2196 Ways and Means on S.B. No. 3158

The purpose of this bill is to authorize insurers to offer pooled insurance for construction projects estimated to cost at least \$50,000,000.

Specifically, this bill allows the purchase of pooled insurance by the State for publicly financed construction projects, and by private persons for their own construction projects. Pooled insurance is multi-purpose insurance, excluding prepaid health insurance, which covers the liability of all developers, contractors, and subcontractors on a specific construction project.

Your Committee finds that current administrative practice disallows pooled insurance from including coverage for workers' compensation. The administration pointed out that problems of overinsurance might occur if a work injury at a construction site were covered under multiple policies. Conceivably, a subcontractor's employee might potentially be covered by the subcontractor's regular policy, the pooled policy, perhaps even the general contractor's or the developer's regular policy, in cases where the subcontractor is deemed not an independent contractor.

This bill clarifies that in cases of a conflict with the workers' compensation statutes on insurance contracts, this bill controls. The pooled policy is the primary policy for a project work injury.

Your Committee believes that pooled policies are a cost-effective insurance mechanism because they render moot any independent contractor issues that would otherwise arise and require resolution on an expensive ad hoc basis.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3158, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2197 Ways and Means on S.B. No. 3188

The purpose of this bill is to clarify the collection and payment responsibilities of the plan manager for a time share association. This bill also provides the right of appeal for any plan manager or person having an interest in a time share unit.

This clarification of the responsibilities of the collection and payment of real property taxes by the plan manager will contribute to a better understanding of the role of the plan manager as the agent of the owners of individual units. Additionally, the clarification with respect to the appeal process is important to ensure that both the plan manager and any person having an interest in a time share have the right to appeal.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3188 and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2198 Ways and Means on S.B. No. 3269

The purpose of this bill is to clarify the authority of the Board of the Hawaii Hurricane Relief Fund (HHRF) to pledge moneys of the fund.

Your Committee finds that this bill will allow the HHRF to enter into loan agreements whereby the borrower, or the HHRF, is able to provide the lender a perfected security interest in specific revenues. This will enhance the borrowing power of the HHRF and thus augment its ability to provide insurance coverage for hurricane damage.

Your Committee has amended this bill by making a technical nonsubstantive amendment to correct an error in drafting.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3269, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3269, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2199 Ways and Means on S.B. No. 2083

The purpose of this bill is to require the Department of Education, in consultation with the Department of Public Safety, to develop and conduct a program for the initial and ongoing training of school security attendants.

Specifically, this bill:

- (1) Requires the training program to consist of not less than seventy hours and, where feasible, to be developed in collaboration with individual schools, school/community-based management councils, school administration, students, other school support personnel, and the community;
- (2) Requires school principals, vice principals, teachers, and support personnel to be involved in the training being provided to the security attendants so that every security attendant may be evaluated for job performance and to promote a more common understanding of school security responsibilities;
- (3) Requires the training curriculum to cover:
 - (A) The basic essentials commensurate with the position description for security attendants, including crisis intervention and diffusion;
 - (B) Techniques in horizontal and vertical patrols;
 - (C) Report writing;
 - (D) First responder training; and
 - (E) Safety functions;
- (4) Requires training in and information concerning the penal code, search and seizure laws, the laws of arrest, and similar law enforcement subjects to be provided primarily at a modified and reduced version of law enforcement training;
- (5) Requires the training program to emphasize intervention and diffusion techniques to temporarily maintain order until law enforcement officers arrive to minimize potential liability, but allows training to be offered along the use of force continuum;

- (6) Requires the departments to utilize existing resources in instituting both the initial training program as well as the ongoing training program for school security attendants; and
- (7) Requires school security attendants to successfully complete the training program in accordance with the departments' training standards.

In addition, this bill:

- (1) Requires the Department of Education to develop criteria to hire ten special duty law enforcement officers at selected schools where law enforcement powers may be deemed necessary to ensure the safety of students and staff; and
- (2) Appropriates an unspecified sum from the criminal forfeiture fund for the training of school security attendants and the hiring of ten special duty law enforcement officers at selected schools.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2083, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2200 (Majority) Ways and Means on S.B. No. 2261

The purpose of this bill is to broaden the scope and discretion of the Office of Youth Services to give the office greater responsibility for juvenile delinquency and the rehabilitation of children.

At present, services to troubled youth are fragmented and uncoordinated as duties are spread throughout all three branches of government. Our children deserve a more comprehensive scheme of coverage that would permit proper utilization of scarce resources. State fiscal realities also dictate that services be consolidated to be made as efficient as possible. Your Committee finds that the changes proposed by this bill will improve services to a vulnerable and needy portion of the State's population while enhancing essential state operations.

Your Committee has amended this bill by:

- (1) Providing that members of the Juvenile Justice Management Commission be appointed by the Governor from lists submitted by the other branches of government, rather than by representatives of the branches themselves; and
- (2) Making a technical, nonsubstantive grammatical change, and correcting internal section references.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2261, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2261, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 9. Noes, 1 (Liu). Excused, 1 (Bunda).

SCRep. 2201 Ways and Means on S.B. No. 2264

The purpose of this bill is to impose surcharges on certain filing fees in civil cases to provide an additional source of funding for legal services for indigent persons in Hawaii.

Your Committee finds that the legal needs of Hawaii's indigent population are not being met due to inadequate funding of organizations that provide these services. In the early 1980s, federal funding for indigent legal services was cut by approximately twenty-five per cent and has never been restored to its earlier levels. Although the State has appropriated funds to support these organizations, the funds have been insufficient to compensate for all of the federal cuts made.

Furthermore, your Committee finds that a study on the availability of civil legal services to Hawaii's poor was recently conducted by the Spangenberg Group, a nationally recognized group that specializes in the study of programs for the indigent. The Spangenberg report found that fewer than ten per cent of the legal problems of the poor were being addressed by any entity. In fact, the report found that Hawaii has the lowest rate of civil legal services to the poor in any jurisdiction previously studied. The unfortunate result is that, unable to afford or find legal services, many Hawaii residents with domestic abuse problems or landlord-tenant disputes or in need of making a simple will do not have access to the civil justice system. Moreover, your Committee is well aware that the typical Hawaii resident affected by the shortfall of legal services is a single mother with earnings that place her near or below the poverty level. Your Committee finds that the surcharges established by this bill are necessary to provide funds, in the form of grants, to qualified providers of civil legal services for indigents.

Your Committee has amended this bill by:

- (1) Requiring the Public Defender, instead of the Director of Finance, to administer the indigent legal assistance fund or contract with a nonprofit organization to do so;

- (2) Changing the term "grant administrator" to the more appropriate term of "fund administrator" and defining the term to clarify that it refers to either the Public Defender administering the fund or a nonprofit organization administering the fund under contract with the Public Defender;
- (3) Excluding from the definition of legal services, legislative advocacy and organizations that provide referral services of attorneys providing pro bono services;
- (4) Correcting the consecutive numbering of sections, as there were two sections designated as number 4; and
- (5) Making a number of technical, nonsubstantive changes for purposes of style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2264, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2264, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2202 Ways and Means on S.B. No. 2322

The purpose of this bill is to impose a reasonable fee upon first-time applicants for permits to acquire firearms. This bill also allows county chiefs of police to issue joint firearm permits.

Your Committee finds that county police departments are inappropriately burdened by the fees charged to the departments by the Federal Bureau of Investigation for fingerprint analysis associated with the firearm permit application process. Your Committee further finds that, with respect to the Honolulu Police Department alone, the FBI charges \$24 for every fingerprint analysis it conducts upon a new permit applicant and an additional \$18.50 is spent by the Honolulu Police Department in administrative expenses for the firearm permitting program.

The lack of an application or permitting fee results in these costs being absorbed by the county police department, and ultimately, by the taxpayers in each county. Your Committee finds that, especially in view of the current fiscal crisis, it is appropriate and eminently fair that the applicants support the cost of processing permit applications, as opposed to the taxpayers.

Your Committee also finds that many spouses seek to apply for firearm permits jointly, but current law and procedures do not expressly provide for either joint applications or joint permits. Instead of both spouses receiving a joint permit, current law requires them to apply individually. This creates the unintended result of having more individual permit applications being made, which must be processed, and having more firearms purchased and owned within the same household. Your Committee recognizes that the negative effect associated with the current system is increased firearm ownership, which brings with it other problems associated with the proliferation of firearms.

Your Committee has amended this bill to correct a defect in the Ramseyer style and to correct punctuation and grammatical errors.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2322, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2322, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2203 Ways and Means on S.B. No. 2330

The purpose of this bill is to protect the confidentiality of work of the Auditor and to facilitate the Auditor's mandated operations.

Specifically, this bill:

- (1) Prohibits the disclosure of the Auditor's working papers developed during audits and other investigations;
- (2) Prohibits the Auditor and the Auditor's staff from being required to testify in judicial or administrative proceedings concerning the Auditor's audits or investigations, except to appear as a witness on behalf of the State;
- (3) In order for the Auditor to carry out an assessment of social and financial effects of proposed mandated health insurance coverage, requires:
 - (A) A bill mandating that coverage to have been introduced in the legislature; and
 - (B) Specific information be provided in the bill;
- (4) In order for the Auditor to analyze new regulatory measures considered for enactment that would license heretofore unregulated professions and vocations, requires that the referral to the Auditor for analysis be made by concurrent resolution identifying a specific bill to be analyzed; and
- (5) Allows the Auditor to employ attorneys.

Your Committee finds that the Auditor performs necessary and important state functions and that the measures proposed in this bill are necessary both to preserve the integrity of the Auditor's work as well as to enhance its ability to carry out its mandated functions.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2330, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2204 Ways and Means on S.B. No. 2331

The purpose of this bill is to make amendments to the Hawaii Omnibus Criminal Forfeiture Act, including: increasing the State's burden of proof to a preponderance of the evidence standard; providing for an affirmative defense to limit the scope of a judgment of forfeiture, to the extent that the effect of the forfeiture is grossly disproportionate to the nature and severity of the owner's conduct; and making the Act permanent by repealing its sunset date.

At the time of its original enactment, the Hawaii Omnibus Criminal Forfeiture Act (Act 260, Session Laws of Hawaii 1988) was given a sunset date of July 1, 1990, to provide legislative oversight to ensure the law was fairly enforced and administered. In 1990, on the recommendation of the Auditor, the sunset date was extended to 1993 to allow sufficient time for the Attorney General to establish an efficient forfeiture program. In 1993, upon a specific finding that the law had been "fairly enforced and administered" and used in an appropriate fashion, the Legislature extended the law an additional three years and requested the Auditor to provide a sunset evaluation prior to the 1996 regular session.

In the Sunset Evaluation Report of the Forfeiture Program (Report No. 95-22) the Auditor found that: the forfeiture law contains numerous safeguards; the Attorney General has implemented the law appropriately and carefully; there exists no evidence of abuse in executing the forfeiture law; the boundaries established by the statute and the moderate approach of the Attorney General's department appear to have set the tone for a restrained use of forfeitures by county authorities; over the past few years the Attorney General has made improvements in the administration of the criminal forfeiture fund; and financial audits by Deloitte & Touche for fiscal years 1991-1992 and 1992-1993 indicated no internal control or legal compliance problems in the administration of the fund.

In the past, the rationale for keeping the forfeiture program temporary was that, because of its powerful nature as a tool in the fight against crime, it required periodic oversight by the Legislature. However, given the program's track record since 1988, your Committee concurs with the Auditor's recommendation that the forfeiture law be made permanent. Your Committee believes that the annual reporting requirement of section 712A-16(6), Hawaii Revised Statutes, constitutes a more appropriate form of legislative oversight. Moreover, your Committee notes that nothing would preclude the Legislature from reexamining the forfeiture program and the dispositions of the criminal forfeiture fund at any future date, should the need arise. Furthermore, your Committee acknowledges that the Attorney General has experienced difficulty retaining qualified staff for the program because of the constant threat of elimination of the temporary program and its positions. Without the necessary staff and expertise, use of the program has been and will continue to be limited. Permanent enactment of the Criminal Forfeiture Act would resolve this problem.

Your Committee finds that forfeitures serve a public purpose of removing assets, from certain members of the public, that either facilitate or are derived from illegal activity. These forfeited assets or the proceeds therefrom are used to administer the forfeiture program, train and educate law enforcement personnel, and provide supplemental payments to state and county agencies for law enforcement purposes. Such use of these assets or proceeds is for a public purpose and benefit.

Your Committee also finds that forfeiture provides an immediate deterrent from future illegal activity involving those assets forfeited or precludes any further enjoyment of forfeited assets derived from illegal activity. In addition, although the deterrent impact cannot be measured in crime statistics, a decline in the fund's balance suggests that criminals may be getting the forfeiture message and can be taken as an indication of effective deterrence. Moreover, in view of shrinking financial resources and prison overcrowding, your Committee strongly believes that every lawful weapon in the war on crime that does not entail additional expenditure of public moneys or incarceration of additional inmates should and must be used to the fullest extent possible.

Finally, your Committee notes that administrative forfeiture proceedings are held only in instances of uncontested seizures, after proper notice has been given. In contested forfeitures, however, a person claiming an interest in the property is entitled to a judicial hearing with all the attendant rights and safeguards. Accordingly, your Committee believes that the State, in such instance, should be held to a higher standard of proof than probable cause.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2331, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2205 Ways and Means on S.B. No. 2494

The purpose of this bill is to establish an electronic prescription accountability system to monitor the prescribing and dispensing of certain controlled substances.

The system is designed in an efficient and cost-effective manner that will not impede the appropriate and necessary prescribing of medication and that will ensure the confidentiality of sensitive medical information.

Your Committee finds that the Drug Enforcement Administration estimates that controlled prescription drug diversion constitutes a \$25,000,000,000 annual market. The diversion of controlled drugs can occur in a number of ways, including:

- Illegal acquisition of prescriptions by individuals from multiple physicians under the pretense of legitimate medical need;
- Indiscriminate, inappropriate, or careless prescribing by physicians or dispensing by pharmacists;
- Prescription forgery;
- Illegal sales by physicians or pharmacists; and
- Drug theft from physicians and pharmacies.

Schedule II drugs, such as morphine, amphetamines, percodan, and secobarbital, that are legally available to the public for legitimate medical purposes have the highest potential for abuse and addiction because of their psychological or physical effects on the user.

While federal efforts to control drug diversion are concentrated at the wholesale and manufacturing levels, Hawaii has focused its efforts on detecting diversion where it is most likely to occur at the retail level. Your Committee finds that Hawaii's approach has been a voluntary prescription drug monitoring program known as HISTEM (Hawaii Schedule Two Electronic Monitoring) that tracks the prescribing, dispensing, and purchasing of certain controlled substances. Under the HISTEM program Narcotics Enforcement Division investigators are able to confront physicians or patients at the onset of their abusive behavior, thus deterring these physicians and patients from committing further violations. Over eighty per cent of all individuals identified through HISTEM are "multi doctor" patients who knowingly obtain controlled substance prescriptions from several physicians for supporting their own habit or to sell to others. The system allows the narcotics enforcement division to monitor the prescribing practices of all physicians statewide and to monitor targeted pharmacies, physicians, and geographic areas for regulatory compliance. The program currently monitors four thousand six hundred physicians and information from one hundred ten thousand schedule II prescriptions filled annually in the State. Part of the success of the HISTEM program can be attributed to the fact that ninety-seven per cent of all pharmacies doing business in the State are voluntarily participating in the program.

Since the inception of the HISTEM program in March of 1992, it has initiated over five hundred felony drug cases. During this past year, the Narcotics Enforcement Division has experienced a steady increase in the amount of cases involving the diversion of pharmaceutical controlled substances, particularly among medical professionals and hard core drug users. The Narcotics Enforcement Division investigated eight hundred twenty-five cases directly related to controlled substances. Of these, three hundred eighty-two cases were initiated by the HISTEM program, an increase of forty-four per cent from the previous year.

Your Committee notes that the HISTEM program recently was selected by the United States Department of Justice as one of the top programs in the country. Moreover, the Model Prescription Accountability Act, proposed by the President's Commission on Model State Drug Laws, is essentially the HISTEM program. Your Committee also finds that similar prescription monitoring programs implemented in ten other states have proven effective in reducing the diversion of controlled substances covered by the monitoring programs.

Your Committee further finds that this bill will allow the State's Narcotics Enforcement Division to continue its electronic prescription monitoring program, which has proven its ability to effectively detect persons attempting to divert certain prescribed controlled substances for illegal use.

Your Committee has amended the disclosure provision at section 329-D(c) that would have permitted the Administrator of the Narcotics Enforcement Division to disclose confidential information to any investigating agency making the request. Your Committee feels this power is too broad and has amended the bill to require, at the very minimum, reasonable grounds connected to an ongoing investigation. Your Committee feels this language is sufficient to assist any investigating agency with ongoing investigations and also protect an individual's right to privacy.

Your Committee has amended this bill by:

- (1) Redesignating paragraph 329-B(d)(5) as subparagraph (C) of subsection (d)(4) of that same section and making conforming changes; and
- (2) Changing the term "special" fund to "revolving" fund in line 22 of page 13.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2494, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2494, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

The purpose of this bill is to ensure the continued funding of the Department of the Attorney General's Medicaid Investigations Division by making an emergency appropriation for fiscal year 1995-1996.

Your Committee finds that the Medicaid Investigations Division investigates and prosecutes fraud and overbilling and cases of patient abuse in health care facilities in the State's medicaid and other health programs. Effective on July 1, 1995, the general fund portion of the division's funding source was replaced by moneys from the medicaid investigations recovery fund newly created under section 28-91.5, Hawaii Revised Statutes. However, with the shift to special fund funding, no new additional moneys were appropriated to cover matching funds for employee fringe benefits. In addition, moneys for lease and investigative expenses also need to be appropriated. This bill appropriates the needed \$77,926 for fiscal year 1995-1996 to cover these necessary expenses and allow the Department to meet its fiscal obligations.

Your Committee has amended this bill by adding a new section 2 to the bill containing general fund expenditure ceiling language and by making technical, nonsubstantive amendments.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2695, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2695, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 2 (Bunda, Tanaka).

SCRep. 2207 Ways and Means on S.B. No. 2699

The purpose of this bill is to expedite the determination of paternity of an infant by allowing the natural father to acknowledge paternity immediately prior to or after the infant's birth.

Your Committee finds that providing a simple mechanism for the voluntary acknowledgment of paternity can be crucial to a child's welfare. This acknowledgment can help bring the father into the family unit, with resulting long-term emotional and economic benefits to the child. The simplified acknowledgment process in this bill will also help the State comply with federal regulation in this area.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2699, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2208 Ways and Means on S.B. No. 2709

The purpose of this bill is to change the district boundaries of the island of Oahu for judicial and non-judicial purposes.

Your Committee finds that the 1989 change to the district boundaries for purposes of transferring Waikakalua, Waipio Acres, and Mililani Town from the Ewa District to the Wahiawa district and the 1991 amendment transferring Sunset Beach from the Koolauloa to the Waialua District for the convenience of residents reporting to their respective court houses caused unanticipated problems on the way these former district boundaries were used for the collection and comparison of census data and other statistical information.

This bill clearly indicates which boundaries on Oahu exist for judicial purposes and which boundaries exist for all other purposes, and preserves the standard districts which made for continuity in comparing statistical data.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2709, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2209 Ways and Means on S.B. No. 2821

The purpose of this bill is to economize the operations of the unclaimed property program.

Specifically, this bill:

- (1) Creates a staggered escheat schedule for unclaimed property held in custody by the State;
- (2) Consolidates the publishing requirements relating to public notices;
- (3) Lengthens the time period within which the Director of Finance must respond to a claim; and
- (4) Broadens the monetary range of property subject to public notice prior to escheat to include property worth between \$100 and \$999.

The present law requires the State to receive and maintain custody over unclaimed property forever. Unclaimed property usually refers to money or stock unclaimed by its rightful owner for usually five years or more. This measure allows the State to minimize its custodial expenses and recoup them through the escheat process.

Your Committee has amended this bill by changing the public notice requirements for unclaimed property held by the State by allowing publication in county-size newspapers instead of statewide newspapers.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2821, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2821, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2210 Ways and Means on S.B. No. 2875

The purpose of this bill is to provide for absentee voting services in the event of natural disasters.

This bill also gives the Chief Election Officer the discretion to postpone elections up to twenty-one days to give the Chief Election Officer more time to assess the conditions in a precinct, district, or county after a natural disaster.

The experience of Kauai after Hurricane Iniki pointed out the lack of adequate statutory authority for conducting absentee voting after a natural disaster. Fortunately, the primary elections in 1992 were conducted normally, but only after hectic assistance from the County Clerk of Kauai and the Hawaii National Guard. Your Committee finds that while election difficulties were averted satisfactorily on Kauai in that instance, to be forewarned is to be forearmed. This bill is designed to anticipate and plan for future natural disaster contingencies in an election year.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2875, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2211 Ways and Means on S.B. No. 2881

The purpose of this bill is to appropriate \$1,244,780 for deposit into the criminal injuries compensation fund to compensate victims of crime and their service providers.

Your Committee finds that, pursuant to chapter 351, Hawaii Revised Statutes, the criminal injuries compensation commission is charged with determining the appropriate compensation for victims of crime, who include: actual victims of certain offenses; persons who have suffered loss or incurred hospital, medical, funeral, or burial expenses as a result of a victim's injury or death; dependents of a deceased victim; and persons who suffer personal injury or property damage in the course of preventing a crime.

Your Committee further finds that the appropriations in this bill are necessary to fund the awards made by the commission between July 1, 1994 and June 30, 1995. Moreover, your Committee believes that this support for victims of crime is a necessary and just measure that makes somewhat more bearable the physical, psychological, or emotional injuries suffered by victims of crime and their dependents.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2881, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2212 Ways and Means on S.B. No. 2882

The purpose of this bill is to make housekeeping changes to the law relating to criminal injuries compensation.

In particular, this bill:

- (1) Amends the powers and procedures of the Criminal Injuries Compensation Commission to require that written appeals be received by the commission within sixty days of the mailing of a certified copy of the decision and order;
- (2) Amends the cap on reasonable attorneys' fees for awards in excess of \$1,000 from no more than fifteen per cent of the award to \$150;
- (3) Amends the law allowing the commission to reconsider its own orders or decisions on its own motion by providing that the reconsideration be made in the absence of an appeal, and further provides for the mailing, rather than service, of the commission's order or decision to applicants at the applicants' last known address, who are aggrieved by that order or decision and who seek a reconsideration or appeal to the circuit court;

- (4) Replaces "relative of a deceased victim" with "any person" in reference to those persons who may be eligible for compensation for reimbursement of hospital, funeral, and other expenses; and
- (5) Provides that if an applicant has made a false statement or representation of a material fact knowing it to be false, or knowingly fails to disclose a material fact to obtain or increase compensation, the commission shall deny the claim if discovered before payment of the claim.

Your Committee agrees with the intent of this bill, which will allow the Criminal Injuries Compensation Commission to perform its functions more effectively.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2882, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2213 Ways and Means on S.B. No. 2883

The purpose of this bill is to clarify the rights and duties between the criminal injuries compensation commission and persons entitled to compensation when the commission makes overpayments.

This bill reaffirms the common law principle of restitution to prevent unjust enrichment. Specifically, persons receiving overpayments are generally liable to the commission for the overpayments. Exceptions apply when payments were received without fault on the part of the recipient, and equity and good conscience outweigh the right of recovery of the overpayment by the commission. At the discretion of the commission, overpayments must be repaid to the criminal injuries compensation fund or applied as a setoff against future payments.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2883, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2214 Ways and Means on S.B. No. 2884

The purpose of this bill is to reallocate \$5,487,000 in approved construction funds for phase III, increment I of the Women's Community Correctional Facility (WCCC)(Olomana Cottage, Oahu) from fiscal year 1996-1997 to fiscal year 1995-1996.

Specifically, this bill allows the renovation of Olomana Cottage to begin ahead of time. Barring any unforeseeable problems, female inmates currently housed at the Oahu Community Correctional Center (OCCC) will be able to occupy Olomana Cottage ahead of time. Transferring these female inmates to WCCC will alleviate overcrowding at OCCC, which is operating under a court-imposed population cap. The renovation of Olomana Cottage will also increase the maximum bed space of WCCC, which is also operating under a court-imposed population cap.

This bill is recommended by the Governor for immediate passage in accordance with article VII, section 9 of the State Constitution.

Your Committee has amended this bill by making technical, nonsubstantive changes for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2884, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2884, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2215 Ways and Means on S.B. No. 2886

The purpose of this bill is to authorize the Director of Public Safety to garnish moneys earned or received by committed persons for any claims against those committed persons.

Your Committee finds that the law presently prohibits moneys earned by committed persons and held by the Department of Public Safety from being subject to garnishment, levy, or other attachment, except for restitution to victims and child support payments. Your Committee believes that effective social rehabilitation of committed persons requires that these persons accept financial responsibility for their actions while incarcerated.

Your Committee finds, however, that many inmates do not display any sense of financial responsibility. Their legally permitted but uncontrolled and exorbitant demands upon the State for copying costs of legal documents and chronic vandalizing of inmate facilities and furnishings result in several thousands of dollars of unbudgeted expenses for the State annually. Instilling a sense of financial responsibility in a committed person cannot readily be accomplished if the State, rather than the committed person, always ends up paying the debts and expenses of the committed person. Moreover, your Committee believes it is patently unfair to place responsibility for an inmates's debts and expenses on the State's taxpayers.

Your Committee has amended this bill by:

- (1) Deleting the restrictive reference to "windfall" in the first sentence of section 2;
- (2) Adding that moneys may be garnished specifically for any fines owed the State;
- (3) Rewording, but not changing the intent of, the second and third sentences in section 2 and language in the purpose section, for purposes of clarity; and
- (4) Making other technical, nonsubstantive changes for purposes of style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2886, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2886, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2216 Ways and Means on S.B. No. 2887

The purpose of this bill is to increase the terms of service of members of the Correctional Industries Advisory Committee in the Department of Public Safety from two years to four years.

Furthermore, this bill requires an almost equal number of staggered terms to expire at one-year intervals. Given that the committee contains nine members, this measure provides for two terms to expire annually for three years, and three terms to expire in the fourth year.

Your Committee finds that lengthened terms of service are necessary for the advisory committee to effectively assist the department in the department's operation of its correctional industries program. Your Committee also notes that evenly staggered four-year terms of service are the norm under section 26-34, Hawaii Revised Statutes.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2887 and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2217 Ways and Means on S.B. No. 2891

The purpose of this bill is to appropriate specified funds to implement various rehabilitative programs aimed at reducing prison and jail overcrowding.

Specifically, these programs are as follows:

- (1) The integrated community sanctions program operated by the judiciary; and
- (2) Pretrial drug treatment services, community reintegration programs, residential work-furlough services, expanded parole services (including an increase in the number of parole officers), and sex offender and substance abuse services for parolees, operated by the Department of Public Safety.

Your Committee finds that these programs were previously authorized last year by Act 25, Special Session Laws of Hawaii 1995, but could not be adequately funded at that time. This measure provides that funding.

Act 25 establishes a state drug court, implements alternatives to incarceration, and provides rehabilitative programs for arrestees and the incarcerated. The intent of the Act is to control the correctional population. Population management remains the single most important issue for the State in satisfying the federal consent decree mandated in Spear v. Cayetano.

Your Committee has amended this bill by changing the appropriation amounts to blank amounts.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee 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 the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2218 Ways and Means on S.B. No. 2893

The purpose of this bill is to make an emergency appropriation to expand the therapeutic drug treatment programs of Hawaii's correctional facilities.

Specifically, this bill appropriates \$306,477 for fiscal year 1995-1996 for the expansion of the therapeutic community drug treatment programs in the correctional facilities, to be expended by the Department of Public Safety.

Your Committee finds that an overwhelming proportion of inmates in Hawaii's prisons suffer from some form of chemical dependency. Without a program to treat these problems while inmates are still in the system, the potential for repeat offenses and further prison overcrowding is a distinct possibility. Your Committee believes that drug treatment programs such as the Department of Public Safety's KASHBOX program help treat the substance abuse problems of inmates prior to their release, thereby protecting the community and helping to control the size of Hawaii's prison population.

Your Committee has amended this bill to change the appropriated amount from \$306,477 to a blank amount for purposes of further discussion and to add a new section 2 containing general fund expenditure ceiling language. Your Committee has also made technical, nonsubstantive amendments for the purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2893, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2893, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2219 Ways and Means on S.B. No. 2925

The purpose of this bill is to provide additional opportunities for the Department of Taxation to collect outstanding taxes from a delinquent taxpayer's property.

This bill allows the Department of Taxation to become involved in proceedings that may produce increased revenues from taxpayers who own real property and have an outstanding tax liability. This bill requires the Department to be notified of actions to partition, quiet title, or foreclose upon real property or upon the sale of property under the attachment or execution laws. It also requires the Department to be joined as a party in cases involving the partition of real property that has a tax lien attached.

Your Committee finds that in this current economic climate, the Legislature must provide the Department of Taxation as many collection tools as possible in order to maximize tax collections.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2925 and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2220 Ways and Means on S.B. No. 2979

The purpose of this bill is to appropriate funds to enable the District Courts in the second, third, and fifth circuits to hold video arraignments and conference hearings.

The funds appropriated are to be offset by any grants awarded to the Judiciary through the Edward Byrne Memorial State and Local Law Enforcement Assistance Formula Grant Program, a federal grant program. Your Committee finds that this video program will allow the pooling of resources by several agencies and maximize efficiency in government. Establishing telecommunications links between the District Courts and the holding facilities will facilitate arraignments and conference hearings and reduce costs by dispensing with the need to transport defendants in-custody.

Although your Committee agrees with the purpose of this bill, your Committee would like to see the Judiciary consider other alternatives that may result in greater savings, such as assigning judges to hold hearings and arraignments at the holding facilities.

Your Committee has amended this bill by changing the appropriations to unspecified amounts to facilitate continuing discussion of the matter and by changing the word "sum" to "sums" in section 2 of the bill.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2979, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2979, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2221 Ways and Means on S.B. No. 2981

The purpose of this bill is to establish a Judiciary History Center trust fund to support the educational purposes of the center.

In addition, this bill establishes a for-profit concession on the grounds of the center, and exempts the center from employing blind or visually handicapped individuals to operate the concession. Moneys from the center concession are to be deposited into the trust fund, which is to be administered by the Friends of the Judiciary History Center.

Your Committee finds that recent budget cuts, as well as anticipated future budget cuts, threaten the important work of the center, which is a unique educational institution in Ali'iolani Hale that provides exceptional learning opportunities for

the local community and visitors regarding Hawaii's judicial process and its history. Your Committee finds that this bill, which does not appropriate any general funds, is necessary to ensure the funding of the center's operations and to retain the center's valuable programs.

Upon further review, your Committee has amended this bill by deleting the redundant second reference to "Ali'iolani Hale supreme court building facilities" from section 102-14, Hawaii Revised Statutes, in section 2 of the bill.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2981, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2981, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2222 Ways and Means on S.B. No. 2987

The purpose of this bill is to change the present "one day, one trial" juror system to a "two-day, one trial" system.

Presently, a juror summoned for duty is obligated to show up for one day only, unless selected for jury duty. This results in the State calling significantly more jurors than it actually needs. The current process wastes the time of the citizens who are called but not selected. It makes less than optimum use of them as a resource, as it takes half a day to orient the jurors, leaving only one afternoon for selection. A two-day system would leave a day and a half for selection. The current system also wastes state funds used to pay the per diem and other expenses, such as lunch and parking, associated with the unused jurors. Your Committee finds that a savings of up to \$250,000 for the first circuit alone is projected under a two-day plan, as compared to the current one-day system.

Your Committee finds that this system would not unduly burden the various economic classes of jurors in the State, and would be a more efficient use of state and human resources.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2987, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2223 Ways and Means on S.B. No. 2988

The purpose of this Judiciary administration bill is to provide for the collection of criminal fines in the same manner as a judgment in a civil action.

In particular, this bill amends the traffic code, chapter 291C, Hawaii Revised Statutes, by enacting a new section that provides that traffic fines may be collected in the same manner as a judgment in a civil action, that costs may be collected in the same manner as a civil judgment, and that the Attorney General may institute proceedings to collect the fine, costs, interest, and attorney's fees as a civil judgment in the court of appropriate jurisdiction. The bill also amends section 706-644, Hawaii Revised Statutes, regarding the consequences of default in paying a fine or restitution, by adding substantially similar new language to that penal code section, and by deleting contradictory language regarding the levy of execution of an unpaid civil judgment entered against the criminal defendant in an action on a debt.

Your Committee finds that this bill, which is designed to make it possible to convert traffic fines and criminal monetary judgments from criminal to civil matters, where appropriate, will greatly assist the State in increasing the collection rate for outstanding fines. The continuing state budget shortfall, combined with the large number of outstanding traffic judgments--currently accruing at one thousand six hundred each month, with a backlog of twenty-six thousand judgments--make it imperative that the State find ways to collect those judgments in an expeditious manner. Your Committee finds that this bill will help to increase the collection rate, not only for outstanding fines, but also for costs, interest, and attorney's fees.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2988, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2224 Ways and Means on S.B. No. 3035

The purpose of this bill is to authorize the Civil Rights Commission to be reimbursed for its expenses in maintaining a successful action in an administrative hearing or court.

Specifically, this bill authorizes the commission to order reimbursement from a party which was found to have committed a discriminatory practice. Reimbursable expenses include travel costs and per diem for the complainant and witnesses, expenses for deposition transcripts, expert witness fees, and commission attorneys' fees.

Your Committee finds that a gap currently exists in the civil rights law. Complainants represented by private attorneys that prevail before the commission or a court may be reimbursed for the costs of maintaining the action. However, when

complainants are represented, without charge, by the commission and the commission prevails, the commission is not entitled under the law to be reimbursed for its expenses.

By closing this gap, this bill enables the commission to replenish its limited supply of financial resources during the course of the year. Without a right to reimbursement, the commission faces a danger of draining its funds on cases pursued early in the fiscal year. Cases pursued later might suffer.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3035 and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2225 Ways and Means on S.B. No. 3042

The purpose of this bill is to establish a three-year pilot project for child protective and diversion services.

In particular, the pilot project, which is created under the direction of the Department of Human Services as the lead agency, along with the Department of Health, the Office of Youth Services, the Department of Education, and the Judiciary, is to include a central intake telephone service, two "neighborhood places" for service delivery, joint public and private child welfare services, test mechanisms for sharing public and private resources, and related features. The bill also establishes an oversight committee to be appointed by the Governor, to serve in an advisory capacity to the Department of Human Services in implementing the pilot project and ensuring completion of an evaluation component for that project.

Your Committee agrees with the intent of this bill, as recommended by the Child Welfare Services Reform Task Force, which was established pursuant to S.C.R. No. 89, S.D. 1, H.D. 1 (1994), to develop a blueprint for reform in Child Protective Services. This bill seeks to implement the model developed by the task force so that the Child Protective Services system may incorporate community partnership to improve service delivery. Your Committee finds that this bill offers real progress to the needs of Hawaii's most vulnerable children and families, especially those who have been the victims of child abuse and neglect. By helping to prevent physical and emotional abuse in children at the earliest possible stages, your Committee finds that this bill will help to break the cycle of violence and eventually help to reduce the rising crime rates in Hawaii's communities.

Upon further review, your Committee has amended this bill to make the expenditure of public funds for the pilot project contingent on the receipt of matching funds from the private sector on a dollar-for-dollar basis, and by making technical, nonsubstantive amendments for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3042, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3042, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2226 Ways and Means on S.B. No. 3057

The purpose of this bill is to allow the Kaho'olawe island reserve commission to hire its own legal counsel instead of requiring it to rely upon the attorney general.

Your Committee finds that in good time, Kaho'olawe's resources and waters will become part of the public land trust and its management and control will be given over to a sovereign native Hawaiian nation. Under these conditions, it is possible that legal issues may arise that are in direct conflict with the State's interests, Maui County's interests, or even the interests of the federal government. In anticipation of these potential problems, it behooves us to provide the mechanism for allowing the commission to retain its own legal counsel, should the need arise. This bill is designed to accomplish this end.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3057, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2227 Ways and Means on S.B. No. 640

The purpose of this bill is to require equivalent levels of public, education, and government (PEG) programming in new cable franchise agreements or franchise transfers to achieve at least the highest level provided by other providers in the same county.

Your Committee finds that PEG programming is an essential component of cable television service. PEG provides unique educational opportunities, as well as enriches the fabric of our democratic society by providing the public with the opportunity to make their views heard. The ability to present legislative and other government sessions, hearings, and meetings directly to homes throughout the State enables widespread participation in the legislative process.

Your Committee finds that levels of PEG programming are not uniform throughout the State or even throughout each county. The purpose of this bill is to require, for new franchise agreements or transfers, that PEG programming levels achieve at least the current and future levels required of the other providers in the county. Your Committee further finds that the mechanism established in this bill will prevent a decrease in PEG programming, which already is in such high demand, and will help to increase levels gradually so that eventually PEG programming will be at a consistent level in consonance with the demand for this type of programming.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 640, S.D. 2, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2228 Ways and Means on S.B. No. 641

The purpose of this bill is to appropriate \$62,000 to the neighbor island public access organizations to purchase equipment for the taping and recablecasting of legislative proceedings.

Your Committee finds that the opportunity to view legislative proceedings is important for all citizens, and particularly important for neighbor island residents due to the cost and impracticalities of travelling to O'ahu to view the proceedings in person. Current technology does allow for the taping of legislative proceedings, but they are cablecast to the neighbor islands at extremely inconvenient viewing times. The neighbor island public access organizations do not have the ability to tape the proceedings themselves and must show the proceedings at whatever times they are sent from O'ahu. Allowing the proceedings to be taped by the neighbor island access organizations themselves will allow them to re-cablecast the proceedings at a time most convenient to the public whom they serve.

Your Committee has amended the bill by making the amounts of the appropriations blank to promote continuing discussions on this issue.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 641, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 641, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2229 Ways and Means on S.B. No. 2401

The purpose of this bill is to establish a temporary pilot project in the Judiciary to allow computer-based digital and electronic filing of court documents.

Your Committee finds that computer technology currently available allows the transmission of documents electronically with as much integrity and security as though they were delivered as hard-copy paper documents, and with greater speed and efficiency. Various computer capabilities, including computer filing and digital signatures, are already in use on the mainland.

The Judiciary copes with an ever-increasing stream of paperwork and could benefit from electronic filing. This bill would permit a temporary project in the Judiciary, with the assistance of the Department of Commerce and Consumer Affairs, to allow electronic filing with verified digital signatures. Your Committee finds that this pilot project could assist the Judiciary while developing a potential model of statewide utility.

Your Committee has amended the bill by restricting the proposed temporary rule-making authority to the public notice and public hearing requirements in the bill. Your Committee finds that this partial exemption from the Administrative Procedure Act, similar to that granted for the interim procurement rules, will enable the department to expedite the rulemaking process while maintaining the ability of the public to access the rules through the office of the lieutenant governor. A complete exemption from the requirements of chapter 91, Hawaii Revised Statutes, would eliminate that avenue of public access.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2401, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. 2401, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2230 Ways and Means on S.B. No. 3107

The purpose of this bill is to clarify the kind of costs for which fees may be charged by a public officer relating to geographic information system (GIS) digital data.

In particular, the phrase "related costs" have been described so that fees may be charged for costs associated with the implementation, research, development, and maintenance of the GIS data.

Your Committee finds that GIS data is very useful to professionals such as engineers and real estate developers, and for land use and commercial applications. Public agencies develop and maintain these systems which can be purchased as

needed by others. By describing related costs associated with GIS data, public agencies will be able to recoup some of the costs expended in maintaining these systems.

Your Committee has amended this bill by adding a missing quotation mark at the end of the amended section.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3107, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3107, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2231 Ways and Means on S.B. No. 3202

The purpose of this bill is to promote charitable contributions of educational technology equipment and services.

Specifically, this bill modifies the operation of section 170 of the Internal Revenue Services and authorizes a charitable contribution of qualified educational technology by corporations to be fully deductible from taxable income in the year the contribution is made. This serves to accelerate the allowable charitable contribution which otherwise would be limited to ten per cent per year of taxable income but could be carried over as many years as needed to exhaust the contribution. The full deduction is available for a two-year period only, tax years beginning after December 31, 1995 and before January 1, 1998. The full deduction is only for qualified educational technology which means computer equipment and services that are necessary to a particular public school's technology plan.

Your Committee finds that the public schools and the University of Hawaii are urgently in need of advanced technology if we are to provide the education that will produce competitive applicants for the workforce. Encouraging the contribution of educational technology equipment and services could provide some relief to the strained budgets of the Department of Education and the University of Hawaii.

Your Committee is aware that authorizing the full deduction for educational technology equipment and services may decrease income tax revenues marginally. Your Committee finds that the short-term economic trade-off of reduced revenues is far outweighed by the value of the contributions to the public schools and the long-term effects that will be exhibited by Hawaii's students.

Your Committee has amended this bill to establish a deduction from gross income for contributions of educational technology equipment and services rather than providing for a modification of the treatment of charitable contributions under section 170 of the Internal Revenue Code. The amount of the deduction is limited to the gross income derived from the taxpayer's trade or business. The taxpayer may choose to account for contributions of educational technology equipment and services either through the deduction from gross income or the regular operation of section 170 of the Internal Revenue Code, but not both.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3202, S.D. 1, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3202, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2232 Ways and Means on S.B. No. 3268

The purpose of this bill is to provide continued legislative support and funding for the legislative public access program.

In particular, this bill transfers the functions and administration of the public access room to the Legislative Reference Bureau; appropriates funds to the Bureau for year-round funding of the public access room, broadcasts of legislative proceedings, and the legislative internet project; and establishes a joint legislative access committee to oversee and review the Bureau's operations in these areas.

Your Committee finds that this bill helps to ensure increased public access to the legislative process. The public access room is a vital source of information and assistance to all state residents. The legislative broadcast and internet projects further enhance citizen participation in this process. Your Committee further finds that the establishment of a joint legislative access committee will assist in providing necessary input into the implementation of these programs.

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

- (1) Replacing the sums appropriated in sections 6 and 7 of the bill with a blank amount to facilitate further discussion on the funding necessary to carry out the purposes of this measure;
- (2) Amending section 8 of the bill to provide that the \$20,000 appropriated by Act 5, Special Session Laws of Hawaii 1995, is to be made for fiscal year 1995-1996 and an unspecified future fiscal year;
- (3) Changing the effective date in section 12 from June 30, 1996, to July 1, 1996; and
- (4) Making other technical, nonsubstantive changes for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3268, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3268, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2233 Ways and Means on S.B. No. 2056

The purpose of this bill is to allow the Director of Health to establish and operate air quality monitoring stations in and around areas zoned for industrial and geothermal uses to monitor emissions and other releases that may occur as a result of equipment failure.

Your Committee finds that although they are required to maintain equipment to guard against unacceptable releases, industrial and geothermal facilities occasionally emit levels of pollution that exceed acceptable state and federal air quality standards. Because of their close proximity, residents in communities adjacent to areas zoned for these uses are often exposed to unacceptable levels of pollution. The establishment of monitoring stations in and around these areas will provide surrounding communities with an early warning system of potentially dangerous releases.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2056, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2234 Ways and Means on S.B. No. 2227

The purpose of this bill is to establish a wet waste disposal income tax credit.

The severe shortage of landfill space requires immediate attention. Diverting wet waste products from landfills to be recycled for residual uses is a viable alternative. Establishing a short-term income tax credit will provide incentive for corporations to promote the diversion of these wet waste products.

Your Committee finds that this short-term incentive may have long-term benefits by allowing corporations to exercise sound environmental policies that will endure beyond the effective period of the tax credit.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2227, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2235 Ways and Means on S.B. No. 2777

The purpose of this bill is to allow the Director of Health to establish loan fees to support the operations of the Water Pollution Control Revolving Fund.

Your Committee finds that since the enactment of the federal Water Quality Act of 1987, the state Water Pollution Control Revolving Fund has received approximately \$80,000,000 in start-up funds from the federal government. These funds, together with state matching funds has enabled the State to issue low interest loans to the counties to facilitate the construction of needed wastewater treatment and transmission facilities. While start-up assistance was provided to the State, there are no provisions in the federal law for long-term assistance. To supplement the diminishing federal funds, a new method of supporting the Water Pollution Control Revolving Fund must be established. The proposed loan fee structure will provide a stable source of funding for the revolving fund.

Your Committee has amended this bill by deleting language in the new provision relating to the establishment of fees which authorized the use of the fees for "supporting activities and other activities of the revolving fund". Your Committee finds that the language was overly broad and, therefore, unnecessary. Your Committee has also made a technical, nonsubstantive amendment to correct an error in drafting.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2777, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2777, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 4 (Fernandes Salling, Fukunaga, Solomon, Tanaka).

SCRep. 2236 Ways and Means on S.B. No. 3184

The purpose of this bill is to appropriate the necessary funds to match the federal moneys available from the Army Corps of Engineers for the restoration of Kawai Nui Marsh.

Your Committee finds that the federal funds would be available in the form of a Section 1135, Water Resource Development Act project, which requires that projects not exceed \$5,000,000 and have a local sponsor to provide

twenty-five per cent share of the costs and assume operations and maintenance of the project, once completed. Your Committee notes that the Department of Land and Natural Resources has signed a letter of intent to become the local sponsor, contingent upon the Governor's approval and appropriation of matching state funds. Your Committee further finds that restoration of Kawai Nui Marsh will provide a wildlife sanctuary for endangered Hawaiian water birds. Furthermore, the project will not only have lasting wildlife conservation and education benefits, but will also greatly benefit the local economy and construction industry.

Your Committee has amended this bill by changing the appropriation to an unspecified amount to facilitate continuing discussion on this matter.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3184, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3184, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2237 Ways and Means on S.B. No. 3249

The purposes of this bill are to: (1) require the Department of Health to record in writing all of the environmental policies and guidelines of the Department and place these documents in a central location to facilitate public access; and (2) make public education and environmental awareness a priority in the State's environmental policy.

Your Committee finds that Hawaii's environment and resources should be managed and protected in a manner consistent with the best interests of the public. As the agency charged with the duty to enforce the State's environmental goals and objectives, it is extremely important that the Department of Health continue its dialogue with the public and the regulated community.

While it is in agreement with the basic intent of this measure, your Committee has amended this bill by centering its focus on the task of updating and reviewing the goals and objectives that contribute to the formulation of the biennium budgets of the State's environmental programs. This bill has been amended to require the Department of Health to ensure that the environmental goals and objectives of the State remain current and up-to-date by soliciting the public's input and reviewing these goals and objectives every two years. The amendment further requires the Department to submit a report on the results of these reviews to the Legislature every two years.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3249, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3249, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2238 Ways and Means on S.B. No. 2421

The purpose of this bill is to allow the Department of Hawaiian Home Lands to negotiate the lease of Hawaiian home lands through public auction.

This bill expands the bid process by adding an open bid process (auction) to the currently allowed sealed bid process in the leasing of Hawaiian home lands.

Your Committee finds that applying both forms of bidding for Hawaiian home lands leases is consistent with the methods currently utilized by the Department of Land and Natural Resources for its leases. Your Committee also finds that a closed bid process has resulted in bidders overbidding in comparison to what other lessees have been paying for their leases and that an open bid process may alleviate this problem, especially since the intent of the Hawaiian Homes Commission Act is to provide a benefit to native Hawaiians.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2421, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2239 Ways and Means on S.B. No. 2067

The purpose of this bill is to authorize private collection agencies under contract with the University of Hawaii to obtain reimbursement for their collection costs directly from the debtors.

Specifically, this bill applies to the collection of delinquent student loans made under the state student loan assistance program.

Your Committee finds that this measure comports with federal practice under the federal student loan program. Furthermore, allowing collection agencies to obtain reimbursement directly from the debtors serves to prevent such costs from being passed on to the University of Hawaii. In the past these collection expenses have drained the university's financial resources, which the university and the State cannot afford to allow in these times of fiscal constraint.

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

Signed by the Chairman on behalf of the Committee.

Ayes, 8. Noes, none. Excused, 3 (Bunda, Fernandes Salling, Taniguchi).

SCRep. 2240 Ways and Means on S.B. No. 2338

The purpose of this bill is to exempt the University of Hawaii library special fund from being assessed for central service expenses and departmental administrative expenses.

Specifically, this bill exempts the fund from assessments for central service expenses based on the fund's program receipts. It also exempts the fund from assessments for the University's administrative expenses based on the fund's pro rata share of the administrative expenses incurred by the entire University.

Your Committee finds that current statutes exempt other special funds of the University of Hawaii from these two types of assessments. These other funds relate to student housing, summer session, continuing education, campus center, and the bookstores. These other funds undoubtedly serve crucial roles in the university's missions. An exemption from assessments helps maintain sufficient financial reserves. Your Committee believes that the library special fund should be accorded similar treatment.

Furthermore, this bill repeals a requirement that a specified amount of tuition revenues in upcoming fiscal years be deposited into a designated special fund for, basically, tuition waivers. The repeal of this requirement reaffirms that the authority to grant waivers rests in the sole discretion of the Board of Regents.

Your Committee has amended this measure by bracketing lines 5 to 7 on page 5. The language contained therein is now redundant, since substantially identical language is being added to the front of subsection 36-30(a), Hawaii Revised Statutes.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2338, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2338, S.D. 2.

Signed by the Chairman on behalf of the Committee.

Ayes, 9. Noes, none. Excused, 2 (Bunda, Fernandes Salling).

SCRep. 2241 Ways and Means on S.B. No. 2900

The purpose of this bill is to clarify that the Board of Regents of the University of Hawaii is the entity responsible for granting tuition waivers.

Specifically, this bill authorizes the Board to waive or reduce tuition fees and other fees based on a percentage of the previous semester's full-time enrollment, and to set that percentage. This bill also repeals section 304-17, Hawaii Revised Statutes, on financial aid. This section sets the percentage of enrollment at fifteen per cent.

Your Committee intends this measure to complement Act 161, Session Laws of Hawaii 1995. It was Act 161 that originally gave the Board of Regents the authority over tuition waivers. This measure makes clarifying amendments.

Your Committee has amended this measure by eliminating superfluous language that is presented on pages 4 to 5 as new subsection (c) of section 304-4, Hawaii Revised Statutes. The text of the purportedly "new" subsection (c) that is neither bracketed nor underscored is, in actuality, an exact duplication of the text of subsection (b). The duplicated passage does not exist in the actual text of section 304-4. Furthermore, the amendments made to the "new" subsection (c) potentially contradict the amendments made to the actual subsection (b). Also, no other substantive amendments are being made to the rest of section 304-4. Therefore, your Committee has restructured the amendment of section 304-4 as an amendment to only subsection (b) of that section.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2900, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2900, S.D. 2.

Signed by the Chairman on behalf of the Committee.

Ayes, 9. Noes, none. Excused, 2 (Bunda, Fernandes Salling).

SCRep. 2242 Ways and Means on S.B. No. 2902

The purpose of this bill is to divest the Legislature of its future authority to set the salary of the President of the University of Hawaii.

The authority to set the President's salary is scheduled to be transferred from the Board of Regents to the Legislature effective July 1, 1998. This bill repeals the transfer, and retains authority with the board. The board is not bound by any statutory ceilings on the salary amount.

Your Committee believes that in order for the University of Hawaii to remain competitive with its mainland peers, the university must be given a fair amount of flexibility and independence in recruiting and retaining the best presidential

candidates available in the marketplace. Flexibility and independence are impaired if control over a President's salary is exercised by a public entity other than the university itself.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2902 and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 2 (Bunda, Fernandes Salling).

SCRep. 2243 Ways and Means on S.B. No. 2626

The purpose of this bill is to exempt properties in the Maunalaha subdivision of Makiki from all state and county subdivision and housing development standards.

Your Committee finds that some families of Hawaiian ancestry have been living in the Maunalaha subdivision of Makiki since the Great Mahele. However, because they do not own the land, many residents have been unable to secure loans to rebuild or upgrade their homes. As a result, many homes are in substandard condition. In 1981, the Legislature authorized the State to enter into long-term leases with residents in the area. Since that time, however, only thirty leases were executed and only a few lessees have been able to construct new homes. This bill will further assist the residents of the area in their effort to rebuild their homes by exempting the subdivision from all state and county subdivision and housing development standards.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2626, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 2 (Bunda, Fernandes Salling).

SCRep. 2244 Ways and Means on S.B. No. 2715

The purpose of this bill is to generally require rental subsidy recipients to pay a greater share of their rent.

Your Committee finds that present law provides that the amount of rental subsidy payments made by the Hawaii Housing Authority to housing owners shall not exceed the amount by which the fair market rental of their units exceeds one-fifth of the tenant's income. This bill increases this limit from twenty per cent to thirty per cent of the tenant's income.

Your Committee finds that this bill will enable the Hawaii Housing Authority to use nationally recognized rental assistance program standards. In addition, increasing the share of rent paid by program recipients will facilitate greater participation in the program.

Your Committee has amended this measure by making a technical, nonsubstantive amendment.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2715, as amended, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2715, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 2 (Bunda, Fernandes Salling).

SCRep. 2245 Ways and Means on S.B. No. 2819

The purposes of this bill are to (1) transfer excess moneys from the rental assistance revolving fund, the Hawaii agriculture loan revolving fund, and the Hawaii aquaculture loan revolving fund to the general fund; (2) appropriate \$2,000,000 to assist in the revitalization of Waialua, Hawaii; and (3) appropriate \$40,000 for the development of a farm workstudy program under the Department of Education.

Your Committee finds that the moneys appropriated in this bill will assist in the revitalization of the economically depressed Waialua community. The moneys appropriated will also facilitate the development of a much needed vocational/technical training program for students enrolled in agricultural education.

Your Committee further finds that although section 37-53, Hawaii Revised Statutes, provides a mechanism for the transfer of excess moneys in special funds to the state general fund, a similar mechanism for the transfer of excess moneys in revolving funds does not exist. In this regard, specific legislation must be enacted to transfer the excess moneys of these funds to the general fund.

While it supports this measure, your Committee finds that the transfers proposed from the agricultural loan revolving fund and the Hawaii aquaculture loan revolving fund to the general fund are currently unnecessary. Your Committee also finds that further review is needed to determine the amounts necessary for the appropriation items proposed in this bill. In this regard, your Committee has amended this bill by: (1) replacing the amounts to be appropriated with blank amounts; (2) deleting the proposal to transfer excess moneys from the agricultural loan revolving fund and the Hawaii aquaculture loan revolving fund to the general fund; and (3) making various technical, nonsubstantive amendments.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2819, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2819, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 2 (Bunda, Fernandes Salling).

SCRep. 2246 Ways and Means on S.B. No. 2866

The purpose of this bill is to transfer certain land parcels from the Villages of Kapolei on Oahu to the Department of Hawaiian Home Lands.

Your Committee finds that the transfer of lands from the Villages of Kapolei, which is a development of the Housing Finance and Development Corporation, will help to satisfy the requirements of Act 14, Special Session Laws of Hawaii 1995, which resolved controversies arising out of the misuse of Hawaiian home lands. That Act allowed for land or other consideration having the fair market value of the deposit, as mutually agreed upon by the State and the Hawaiian Homes Commission, to be substituted in lieu of the annual \$30,000,000 payment.

Your Committee finds that the land exchange option proposed in this bill will expedite the development of housing; help to stimulate the economy; provide the Department of Hawaiian Home Lands with developable land for its beneficiaries, many of whom are in need of affordable housing; and assist the State in meeting the required payments to the Hawaiian Home Lands Trust Fund.

Upon further consideration, your Committee has amended this bill by changing the effective date from upon approval to July 1, 1996, and by making technical, nonsubstantive amendments.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2866, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2866, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 2 (Bunda, Liu).

SCRep. 2247 Ways and Means on S.B. No. 3011

The purpose of this bill is to allow the Housing Finance and Development Corporation, in consultation with the Departments of Accounting and General Services and Education, to enter into development agreements with private developers to expedite the construction of school facilities within the villages of Kapolei.

In addition, this bill:

- (1) Allows the Housing Finance and Development Corporation to authorize a private developer to construct school facilities and to structure the financial obligations concerning school facility construction with the private developer, in accordance with all applicable state and federal laws and in a manner that the corporation deems appropriate and most efficient for building schools for the Kapolei area; and
- (2) Requires the Housing Finance and Development Corporation to submit a report to the Legislature on the expedited building of schools in the villages of Kapolei no later than twenty days prior to the convening of the regular session of 1997.

Your Committee finds that the villages of Kapolei are among the fastest growing residential neighborhoods in the State. Because many of the people who live in--or are in the process of moving to--Kapolei are young adults, there is a growing abundance of school age children and people who are planning to start families. Consequently, there is an urgent demand for school facilities and infrastructure in Kapolei.

Your Committee finds that this bill will allow the State to expedite the construction of school facilities within the villages of Kapolei and meet the urgent demand for additional classrooms and infrastructure in this specific area. This bill is consistent with the legislative intent of Act 210, Session Laws of Hawaii 1995, which sought to expedite the planning of school facilities in such areas as the villages of Kapolei.

Your Committee has amended this bill by:

- (1) Conditioning the expedited construction of school facilities within the villages of Kapolei on the availability of funds;
- (2) Clarifying that sections 27-11 and 201E-30, Hawaii Revised Statutes, and section 4 of Act 210, Session Laws of Hawaii 1995, also do not apply to the expedited construction of school facilities within the villages of Kapolei by the Housing Finance and Development Corporation; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3011, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3011, S.D. 2.

Signed by the Chairman on behalf of the Committee.

Ayes, 9. Noes, none. Excused, 2 (Bunda, Fernandes Salling).

SCRep. 2248 Ways and Means on S.B. No. 2011

The purpose of this bill is to authorize the Commission on Water Resource Management to establish a technical advisory committee and to hire its own legal counsel.

The technical advisory committee will be composed of experts in the technical fields of aquatic ecology, hydrology, geology, and engineering and will be asked to serve six years when appointed by the Governor.

Your Committee finds that the specialized and complex nature of water resource management requires the level of expertise from professionals whose analysis and data collection skills will help the Commission make the necessary rational, hard decisions as population and development demands are placed on all kinds of water resources. The same will be asked of the legal counsel who will be scrutinized for experience and knowledge in this complex subject area.

Your Committee has amended this bill by amending section 28-8.3, Hawaii Revised Statutes, rather than section 103D-209, to allow the Commission on Water Resource Management to hire its own attorney. In 1995, section 103D-209(b) was repealed from the public procurement code.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2011, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2011, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2249 Ways and Means on S.B. No. 2150

The purpose of this bill is to authorize the issuance of general obligation bonds for improvements to the Anahola, Kaua'i water system.

Your Committee finds that the County of Kaua'i is seeking funding from the State pursuant to a settlement agreement in a federal lawsuit. Your Committee further finds that the terms of the agreement require the county to seek these funds every year until the request is granted. The water improvements will assist the existing Anahola homesteaders and will increase the availability of land for homestead purposes.

Your Committee has amended the bill by clarifying that it is the "unencumbered", not the "encumbered", funds that will lapse in 1999.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2150, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2150, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2250 Ways and Means on S.B. No. 2458

The purpose of this bill is to transfer the marine patrol program from the Department of Public Safety to the Department of Land and Natural Resources.

Your Committee agrees that the marine patrol functions currently being performed by the Department of Public Safety belong more appropriately within the Department of Land and Natural Resources, as recommended by the Auditor in 1992. Your Committee finds that inadequacies continue to exist as the responsibility for enforcement of the shorelines and ocean waters is divided between the two departments, and that increased use of these waters has magnified the need for an expanded and more effective enforcement program.

While your Committee agrees with the intent of this bill, your Committee disagrees with the intact transfer of the marine patrol unit to the Department of Land and Natural Resources. Instead, your Committee finds that the unit itself should be abolished and that only the functions of that unit should be incorporated within the Department. The Department has proposed to hire additional conservation and resources enforcement officers in order to meet the requirements for marine enforcement activities; marine patrol officers would be allowed to apply and compete for enforcement officer positions where vacancies occur. Accordingly, your Committee has amended this bill by:

- (1) Amending section 3 of the bill, which amended section 200-2, Hawaii Revised Statutes, to provide that the Board of Land and Natural Resources is to have the primary responsibility for administering the ocean recreation and coastal areas programs, including the functions formerly performed by the Department of Public Safety with respect to boating safety, small boat harbor security, and other areas, rather than requiring the Board to establish a separate administrative unit for this purpose;
- (2) Deleting the transfer of positions provisions contained in section 5 (retaining only the first paragraph of that section) and all of section 7 of the bill;
- (3) Renumbering the remaining sections; and
- (4) Making other technical, nonsubstantive changes for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2458, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2458, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2251 Ways and Means on S.B. No. 2656

The purpose of this bill is to permit the board of land and natural resources to accept grants, donations, and contributions from any source, and submit an annual report to the Legislature.

This bill would allow the Department to obtain new funding sources to protect critical areas within its mandate, such as endangered species conservation, wildlife, fisheries, watershed management, and environmental education. In these austere economic times, the State must look to all possible sources to assist it in protecting and sustaining our precious natural resources.

Your Committee finds that the disclosure and reporting provisions would prevent undue influence in the board's decision-making and would assist the State in environmental protection.

Your Committee has amended the bill by creating a trust fund to hold the donations and contributions and by adding a two-year, drop-dead provision.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2656, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2656, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2252 Ways and Means on S.B. No. 3066

The purpose of this bill is to allow the Departments of Land and Natural Resources and Agriculture to continue to lease lands in the Hamakua and Hilo coast areas for two years.

Your Committee finds that Act 211, Session Laws of Hawaii 1994, was passed by the Legislature to assist in the economic recovery of the Hamakua and Hilo regions of the island of Hawaii. The law enabled the Department of Land and Natural Resources and the Department of Agriculture to grant long-term leases to qualified permittees without public auction, thereby ensuring their tenure on the land and expediting the economic recovery of the region as a whole. This bill will enable the Department of Land and Natural Resources and the Department of Agriculture to continue their recovery efforts in the region by extending the repeal date of the law an additional two years.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3066 and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2253 (Majority) Ways and Means on S.B. No. 3092

The purpose of this bill is to create a temporary Commission on Hawaii in the Twenty-First Century ("commission").

The commission is to be placed within the Legislative Reference Bureau for administrative purposes and consist of representatives of government, business, labor, and the academic community. The commission will study the effects and changes produced by technological, scientific, and social changes with respect to the political, economic, cultural, and social systems in Hawaii's future.

Your Committee agrees with the intent of this bill, and finds that state government needs to receive additional input regarding the type of future desired by state residents. Your Committee finds that the commission will help to ensure that legislative and executive branch decisions move the State towards a shared vision of that future by providing a structure for that process.

Your Committee urges the commission to design or support projects and activities that will facilitate active participation by all segments of the community in thinking usefully and creatively about their preferred future, and that the commission utilize the mass media and all forms of contemporary communications technologies to encourage public interest in the State's future, generate alternative visions, assist in communicating ideas throughout the process, and disseminate the conclusions and recommendations of the commission as widely as possible.

Upon further review, your Committee has amended this bill by making a technical correction to section 5 to clarify that this bill is repealed four years after its effective date.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3092, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3092, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 9. Noes, 1 (Liu). Excused, 1 (Bunda).

SCRep. 2254 (Majority) Ways and Means on S.B. No. 2384

The purpose of this bill is to legalize and regulate pari-mutuel horse racing in Hawaii.

Your Committee agrees that the visitor industry is the mainstay of the State's economy and that Hawaii needs to develop new markets and attractions to expand the potential visitor base. Your Committee finds that horse racing not only has a long tradition in Hawaii but that the re-establishment of horse racing in the State will not detract from Hawaii's natural beauty and may enhance the attraction of the State for visitors. In addition, there is also a potential for increased public revenues.

Your Committee, however, believes that further restrictions on pari-mutuel horse racing in Hawaii are necessary. Accordingly, your Committee has amended this bill to:

- (1) Prohibit pari-mutuel wagering and horse racing in any county whose population exceeds 150,000 (as section § -12(k) in section 2 of the bill);
- (2) Prohibit pari-mutuel wagering until such time that a horse racing facility has been actually constructed and put into operation (as section § -12(j) in section 2 of the bill); and
- (3) Clarify that pari-mutuel wagering and horse racing is prohibited unless the county in which wagering and racing is to occur approves (in section § -17(b) in section 2 of the bill).

Your Committee has made technical, nonsubstantive amendments for the purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2384, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2384, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 8. Noes, 2 (Kanno, Liu). Excused, 1 (Bunda).

SCRep. 2255 Ways and Means on S.B. No. 3166

The purpose of this bill is to appropriate funds for promotional activities relating to the Hawaii Winter Baseball League.

The Department of Business, Economic Development, and Tourism is focusing on diversifying Hawaii as a vacation destination. Sports promotion is an important tourism diversification measure because it brings television exposure. The Hawaii Winter Baseball League is a tourism diversification measure that benefits both local residents and visitors alike.

The expansion of the League's marketing efforts in Japan has the potential to attract visitors from one of the State's major markets. Cultivation of the competitive spirit of baseball between Japanese and American major league prospects has the potential for creating major sports events in the State.

Your Committee finds that promoting an international baseball league, a true "World" Series, would benefit the State. Your Committee has left the amount appropriated blank to encourage further discussion.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3166 and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2256 Ways and Means on S.B. No. 3194

The purpose of this bill is to require that the Hawaii Visitors Bureau (HVB), as a condition of funding, ensure that all hotels and resorts throughout the State comply with fair labor and employment practices.

Your Committee has amended the bill by deleting its substance and substituting therefor provisions that provide for the incremental reduction over a ten-year period of state funding to the HVB to a point where the State provides not more than matching funds to support the activities of the HVB.

Your Committee finds that the HVB is a private, nonprofit organization with which the State has had a contractual agreement since 1959 for the promotion and development of Hawaii as a visitor destination. In 1959, the State provided fifty per cent of the total revenues supporting the HVB. Since that date, the State's support of the HVB has steadily increased from fifty per cent to over ninety per cent.

Over the past decade, the State's contract with the HVB has increased from \$7 million in fiscal year 1986-1987 to \$23 million in fiscal year 1995-1996. In a 1993 management and financial audit of the HVB, the Auditor found that the reports from the HVB were not useful in determining whether state funds were being used efficiently or effectively. In the

same management and financial audit, the Auditor found that the HVB's board of directors and private membership were not accountable for, nor were they scrutinizing expenditures by, the HVB.

According to a 1994 response from the HVB to the Auditor, the membership committee of the HVB would be initiating efforts to generate additional private revenues from, as well as more active participation by, the private sector. According to recent statistics from the Department of Business, Economic Development, and Tourism, the HVB private contributions remain at less than ten per cent of the total HVB budget.

In light of these findings, your Committee believes that the State no longer has sufficient resources to continue to provide ninety per cent of the financial support for the HVB, nor can the State increase financial support for promotional efforts for which there is no clear indication of returns on the investment, and, therefore, has amended this bill accordingly.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3194, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3194, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2257 Ways and Means on S.B. No. 3200

The purposes of this bill are to: (1) establish a Convention Center Advisory Council to advise the Convention Center Authority on matters relating to the social, environmental, and economic impacts of the convention center; (2) earmark remittances of transient accommodations taxes generated as the result of increases in hotel room rates or the construction of new hotel rooms in the area designated for various improvements to the communities adjacent to the Convention Center Project.

Your Committee finds that although the convention center will result in tremendous benefits to the State, the project will also generate a wide variety of problems and concerns. A broad based advisory council comprised of government officials and members of the community will provide the Convention Center Authority with a comprehensive perspective of the problems and concerns generated by the project.

Your Committee further finds that the events of the convention center will attract large numbers of visitors to the State. One concern relates to the manner in which the hotel accommodations of these visitors will be made. Your Committee wishes to ensure that the participants of these conventions are distributed equitably among the hotels available in the area. In this regard, your Committee has amended this bill by including a provision which directs the Convention Center Authority to enter into a contract with an appropriate service provider to manage these bookings and ensure that no single owner of hotels provides accommodations for more than twenty per cent of the attendees participating in any event.

Your Committee has further amended this bill by deleting the provision which earmarked future earnings of the transient accommodations tax toward community improvements in areas adjacent to the convention center project site.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3200, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3200, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2258 Ways and Means on S.B. No. 2098

The purpose of this bill, as received by your Committee, is to require the director of finance to transfer unspecified amounts from specified special and revolving funds to the general fund.

Your Committee has amended this bill by deleting its contents and substituting therefor provisions to replace section 37-44 and 37-45, Hawaii Revised Statutes (HRS), with two new sections. The two new sections are placed in chapter 40, HRS. The placement of the two new sections in chapter 40, HRS, recognizes that their purposes are related to the functions of the comptroller. Sections 37-44 and 37-45, HRS, are repealed.

As amended, the new section on prior accounts clearly provides that accounts for each fiscal year established for special and revolving funds are closed and a new account is established on July 1 of each fiscal year to contain all unencumbered balances. The new section on when encumbrances are void now clearly states that if an encumbrance is inactive, the encumbrance is void six months after the end of the fiscal year of the encumbrance or a lesser time period if designated by the comptroller. The section further provides that all encumbrances are void after five years from the date of the encumbrance, although the comptroller may grant exceptions upon sufficient justification.

Your Committee finds that placing these provisions with other comptroller duties, instead of with budget and finance duties, is appropriate.

The clarifications provided by your Committee provide for easier understanding and will provide for correct fund control.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2098, as amended herein, and recommends

that it pass Second Reading in the form attached hereto as S.B. No. 2098, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2259 Ways and Means on S.B. No. 2160

The purpose of this bill is to amend Act 218, Session Laws of Hawaii 1995, and other appropriations and authorizations enacted for the fiscal biennium 1995-1997.

Your Committee finds that this bill is the companion measure to the supplemental appropriations bill currently under review in the House of Representatives. This bill provides an alternate vehicle for amendments to the General Appropriations Act of 1995.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2160 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2260 (Majority) Ways and Means on S.B. No. 2223

The purpose of this bill is to establish an emergency and budget stabilization fund and transfer to the same, fifty per cent of the general fund balance remaining at the close of a fiscal year in which the general fund balance exceeds five per cent of the total moneys received by the general fund.

Your Committee has amended this bill by deleting its contents and inserting the contents of S.B. No. 2830, which:

- (1) Establishes the emergency and budget stabilization special fund in the treasury of the State and makes the Director of Finance responsible for the administration of the special fund;
- (2) Requires the Legislature to appropriate to the special fund an amount equal to not less than fifty per cent of the general fund balance in excess of five per cent of the total revenues received in the general fund for that fiscal year, including any beginning balance, whenever the general fund balance at the close of a fiscal year exceeds five per cent of the total revenues received in the general fund for that fiscal year;
- (3) Prohibits further appropriations into the special fund once the balance in the special fund reaches an amount equal to ten per cent of total revenues in the general fund at the close of a fiscal year, except for the purpose of restoring the balance in the special fund to an amount equal to ten per cent of total revenues in the general fund at the close of a fiscal year;
- (4) Specifies that the general fund balance at the close of a fiscal year is the unreserved general fund balance computed on the budgetary basis as reported by the Comptroller, and defines "total revenues" to mean all moneys actually received by the general fund as reported by the Comptroller;
- (5) Requires all interest earned from moneys in the special fund to accumulate and become part of the special fund;
- (6) Prohibits total general fund expenditures by the State during any fiscal year, including appropriations to the special fund, from exceeding the general fund expenditure ceiling, except as otherwise provided by law;
- (7) Prohibits expenditures from the special fund except by appropriations, and prohibits the general appropriations bill or the supplemental appropriations bill from being used to appropriate moneys from the special fund;
- (8) Allows the Governor, through an appropriations bill, to recommend expenditures from the special fund by setting forth the purposes, the amounts, and the reasons why the appropriations are necessary;
- (9) Allows the Legislature to make appropriations from the special fund to:
 - (A) Maintain levels of programs determined to be essential to the public health, safety, and welfare;
 - (B) Provide for counter cyclical economic and employment programs in periods of economic downturn;
 - (C) Restore facilities destroyed or damaged or services disrupted by disaster in any county; and
 - (D) Meet other emergencies when declared by the Governor or determined to be urgent by the Legislature;
- (10) Requires any act making appropriations from the special fund to include a declaration of findings and purposes, setting forth the purposes, the amounts, and the reasons why the appropriations are necessary; and requires a three-fourths majority vote of each house of the Legislature to authorize the appropriation;
- (11) Prohibits the special fund from being used to:
 - (A) Meet expenses of the Legislature;

- (B) Provide salary adjustments for appointed officials, justices, and judges, and for other individuals whose salaries are directly related to the salaries of these persons; and
- (C) Fund cost items in any collective bargaining contract unless the general fund or the applicable special fund is, or is projected to be, in a deficit position and cannot fund the cost items approved by the Legislature;
- (12) Requires the Director of Finance to submit a report to the Legislature on the condition of the special fund, specifically including specified amounts and balances for the previous and current fiscal years;
- (13) Exempts the special fund from having to reimburse the general fund for central service expenses and departmental administrative expenses; and
- (14) Makes the implementation of the foregoing provisions contingent on the ratification of the amendment to article VII (taxation and finance), section 6 (disposition of excess revenues), of the State Constitution, relating to the establishment of the special fund.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee 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 placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 9. Noes, 1 (Liu). Excused, 1 (Bunda).

SCRep. 2261 Ways and Means on S.B. No. 2268

The purpose of this bill is to authorize the issuance of general obligation bonds and comply with the requirements of article VII, section 13, of the constitution of the State of Hawaii.

Your Committee finds that the article VII, section 13, of the constitution of the State of Hawaii directs the Legislature to include a declaration of findings with respect to the debt limit of the State in every general law authorizing the issuance of general obligation bonds. The declaration must state that the total amount of principal and interest estimated for all bonds will not cause the state debt limit to be exceeded at the time of issuance. This bill provides the vehicle to comply with this constitutional mandate.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2268 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2262 Ways and Means on S.B. No. 2270

The purpose of this bill, as received by your Committee, is to extend the repeal date of the interagency federal revenue maximization revolving fund and to require a final report from the comptroller to the legislature on the fund.

Upon further consideration, your Committee has amended this measure by deleting its contents and substituting therefor the following provisions:

- (1) Mandating the state auditor to review certain special and revolving funds, including criteria for the evaluations; and
- (2) Establishing a schedule for repeal of the special and revolving funds enumerated.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2270, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2270, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2263 Ways and Means on S.B. No. 2271

The purposes of this bill are to: (1) propose a constitutional amendment authorizing the Legislature to extend the duration of certain appropriations for more than three years; (2) establish a special fund to account for the proceeds of appropriations made for periods of more than three years; and (3) exempt contracts issued under these appropriations from the provision which invalidates contracts if funds for the full amount of the contract are not available.

Due to the current budgetary crisis, your Committee finds that it is incumbent upon state decisionmakers to fully explore new and innovative methods of financing public works projects. By extending the duration of appropriations made for certain capital projects, state agencies will be able to negotiate and enter into long-term lease-purchase agreements with contractors. Your Committee finds that the State and the private sector will both benefit by allowing the negotiation of lease-purchase agreements in which contractors can finance the construction of projects through private

sources while charging the State an amount equal to the principal and interest. This bill will enable the State to spread construction payments over a number of years instead of several large lump sum payments.

Your Committee finds that the citation in the new section establishing the special appropriations revolving fund within chapter 37, Hawaii Revised Statutes, incorrectly refers to article "XII" instead of article "VII" of the Constitution. In this regard, your Committee has amended this bill to correct this inadvertent error. Your Committee has also amended this bill to take effect on July 1, 1996. Your Committee has also made other technical, nonsubstantive changes.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2271, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2271, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2264 Ways and Means on S.B. No. 2552

The purpose of this bill is to delete outdated statutory language relating to the transition of the powers and functions of the now defunct Office of Tax Commissioner to the Department of Taxation.

Your Committee has amended the bill by deleting its substance and inserting therefor, provisions that call for the reorganization of state government.

Specifically, the amended bill:

- (1) Abolishes the Departments of Business, Economic Development, and Tourism, and Human Resources Development;
- (2) Renames the "Office of State Planning" to the "Office of Planning" and transfers the office from the Office of the Governor to the Department of Commerce and Consumer Affairs;
- (3) Establishes an Office of Economic Development within the Office of the Governor to succeed to the economic development functions of the abolished Department of Business, Economic Development, and Tourism;
- (4) Reassigns all necessary functions and programs of the departments and agencies that are administratively attached to the Department of Business, Economic Development, and Tourism to other state agencies; and
- (5) Requires the Governor to submit a follow-up report and draft legislation to the 1997 Legislature.

Your Committee finds that given the State's current financial crisis, the reorganization of state government is essential to the efficient provision of government services. This bill provides the Governor with a combination of specific program transfer directives and broad authority to move departmental responsibilities to other state agencies.

Your Committee believes that the amended bill will provide the necessary guidance to initiate governmental reorganization.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2552, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2552, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2265 Ways and Means on S.B. No. 2769

The purpose of this bill is to appropriate special funds for the community use of school facilities for the fiscal year ending June 30, 1996.

Your Committee agrees with the intent of this bill for the Department of Education to expend special funds for school facilities. Upon further consideration, your Committee has amended this bill to allow schools to use these funds to cover the costs of electricity.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2769, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2769, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2266 Ways and Means on S.B. No. 2822

The purpose of this bill is to clarify the State's short-term investment options.

Specifically, this bill prohibits the State from making short-term investments which either require future state payments or bear variable interest rates. This measure expressly prohibits the State from investing in securities commonly known as "derivative products." Derivative products are associated with the recent Orange County, California bankruptcy. This bill assures the municipal market and rating agencies that the State does not and will not invest in such products.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2822 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2267 Ways and Means on S.B. No. 3091

The purpose of this bill is to propose an amendment to article VII, section 11, of the state constitution, which provides for the three-year lapsing of appropriations, by repealing the exception that permanently prevents the lapsing of appropriations from unencumbered general obligation bond funds, if the Legislature determines that the appropriation is necessary to qualify for federal aid financing and reimbursement.

Your Committee finds that this bill would implement one of the recommendations made by the state Auditor with respect to capital project funds of the State. A review by the Auditor in 1993 revealed that appropriations that fell under this exception totaled more than \$2,700,000,000. Of that amount, \$1,700,000,000 was in bond authorizations for mostly transportation-related projects, but more than \$1,000,000,000 was in special fund cash. Even more importantly, \$187,000,000 of those special funds were tied to projects that had been approved by the Legislature during either the 1981 regular session or prior sessions. The Auditor further pointed out that some appropriations that have been identified by state agencies as being necessary for federal matching funds or reimbursement, and thus designated as nonlapsing, never received the matching funds or the funding has been held up for years. Moreover, your Committee notes that the federal government does not require nonlapsing for federal financing.

Your Committee further finds that nonlapsing tends to undermine legislative oversight of appropriations. Your Committee believes that this bill will result in more certainty in capital financial planning and more flexibility in addressing changing statewide funding priorities.

Your Committee also notes that a bill identical to the present bill was approved by the Legislature during the 1995 regular session, but did not meet the required deadlines for notification and thus had to be resubmitted during the 1996 regular session.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3091 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2268 Ways and Means on S.B. No. 3135

The purpose of this bill is to require the Legislature to review budgetary modifications proposed by the Director of Finance that exceed two and one-half per cent of the total general fund appropriation made in any fiscal year to any executive agency or the University of Hawaii.

Your Committee finds that sections 37-36 and 37-37, Hawaii Revised Statutes, authorize the Director of Finance to modify or reduce the budgetary allotments of the Legislature whenever it is determined that probable state tax receipts will be less than anticipated. Although executive flexibility to make minor modifications is necessary under certain circumstances, your Committee finds that greater legislative oversight should be exercised when these modifications involve substantial portions of the budget.

This bill, as received by your Committee, requires legislative review if the allotment of any agency is reduced or modified by two and one-half per cent. This would require the convening of members of the Legislature whenever a modification meets this threshold. To avoid this situation, your Committee has amended this bill by basing the legislative review requirement on modifications that exceed two and one-half per cent of the total state budget for any fiscal year.

Your Committee has also made several technical, nonsubstantive amendments to clarify the intent of this bill.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3135, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3135, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2269 Executive and Judicial Appointments on Gov. Msg. No. 114

Recommending that the Senate advise and consent to the nomination of SAM CALLEJO as Comptroller, term to expire December 7, 1998.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Grauly).

SCRep. 2270 Executive and Judicial Appointments on Gov. Msg. No. 115

Recommending that the Senate advise and consent to the nomination of MARILYN MATSUNAGA as State Administrator, State Health Planning and Development Agency, term to expire June 30, 1999.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Grauly).

SCRep. 2271 Executive and Judicial Appointments on Gov. Msg. No. 123

Recommending that the Senate advise and consent to the nominations of the following:

GERVACIO BUENCONSEJO, EDWIN T. GINOZA, PETER C. MORTON, SHARON T. NAKAGAWA, DANFORD I. SAKAI, CHERYL M. SHINTANI and TWYLLA-DAWN STEER to the Hawaii Teacher Standards Board, terms to expire June 30, 1998.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Grauly, Holt).

SCRep. 2272 Executive and Judicial Appointments on Gov. Msg. No. 124

Recommending that the Senate advise and consent to the nominations of the following:

MERLE A.K. KELAI to the Land Use Commission, term to expire June 30, 1998; and

HERBERT S.K. KAOPUA SR., to the Land Use Commission, term to expire June 30, 2000.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none 1 (Grauly). Excused, 1 (Grauly).

SCRep. 2273 Executive and Judicial Appointments on Gov. Msg. No. 125

Recommending that the Senate advise and consent to the nomination of EDWARD THOMPSON "SKIPPA" DIAZ to the Stadium Authority, term to expire June 30, 1997.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Grauly).

SCRep. 2274 Executive and Judicial Appointments on Gov. Msg. No. 126

Recommending that the Senate advise and consent to the nomination of ROGELIO EVANGELISTA to the Advisory Board on Veterans Services, terms to expire June 30, 1996 and June 30, 2000.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Grauly, Holt).

SCRep. 2275 Transportation and Government Affairs on H.B. No. 2433

The purpose of this bill is to increase the efficiency of the motor carrier law by extending the repeal date of Act 105, Session Laws of Hawaii 1995 (Act 105) from June 8, 1996, to June 8, 1998. Act 105 authorized the use of motor vehicle safety officers to enforce the motor carrier law.

Testimony in support of this measure was received from the Department of Transportation, the Public Utilities Commission, and the Hawaii Transportation Association.

Your Committee has amended the bill by making technical, nonsubstantive amendments for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee 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 Communications and Public Utilities.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Taniguchi, Anderson).

SCRep. 2276 Transportation and Government Affairs on H.B. No. 2957

The purpose of this bill is to authorize phlebotomists to draw blood for alcohol testing.

Your Committee has amended the bill to provide that only phlebotomists deemed qualified by the director of a clinical laboratory licensed by the State are authorized to draw blood for alcoholic testing.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2957, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2957, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Taniguchi, Anderson).

SCRep. 2277 Transportation and Government Affairs on H.B. No. 3274

The purpose of this bill is to authorize the Director of Finance for each county to enter into contracts with motor vehicle rental companies for the registration of new motor vehicles.

Favorable testimony was received from the City and County of Honolulu, and from CATRALA-Hawaii. There was no opposition.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3274 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Taniguchi, Anderson).

SCRep. 2278 Transportation and Government Affairs on H.B. No. 3383

The purpose of this bill is to authorize the issuance of general obligation bonds and make an appropriation for the reimbursement of the airport revenue fund for funds used in purchasing two parcels of land in Kapolei.

This administration bill would authorize the issuance of \$64,400,000 in general obligation bonds. This is the amount which the State used from the airport revenue fund to purchase the Hawaii Raceway Park and the Hawaii Meat Company Feedlot, for which the federal government has ruled that the State must reimburse the fund and the State has agreed to do so.

Your Committee prefers that the State explore alternatives to the reimbursement of these funds by issuance of \$64,000,000 in general obligation bonds at this time, including methods such as deferred payment, installment payments, sale or transfer of state assets and/or real property, and other appropriate alternatives. Therefore, your Committee has amended this bill by deleting the authorized amount and substituting an unspecified sum for the Committee on Ways and Means to study further.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3383, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3383, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Taniguchi, Anderson).

SCRep. 2279 Transportation and Government Affairs on H.B. No. 3562

The purpose of this bill is to authorize the Director of Taxation to enter into contracts with private auditors or private audit firms for the examination or investigation of persons subject to state taxes; and to authorize the Director to enter into contracts with persons in other states or countries to collect delinquent taxes of former state residents living or maintaining a business in such states or countries. The bill further provides that such contracts, at the Director's discretion, may provide for compensation on a fixed price basis, an hourly rate basis, or a contingent fee basis, and that payment may be made contingent on the actual collection of taxes.

Favorable testimony in support of this administration bill was received from the Department of Taxation and the Chamber of Commerce of Hawaii.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3562, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Taniguchi, Anderson).

SCRep. 2280 (Joint) Planning, Land and Water Use Management and Agriculture, Labor, and Employment on H.B. No. 3293

The purpose of this bill is to direct the Department of Land and Natural Resources (DLNR) to perform a comprehensive review of Chapter 171, Hawaii Revised Statutes (HRS).

Your Committees find that Chapter 171, HRS, seeks to assure the effective and efficient use of public lands for both public and approved private purposes, in order to promote the social, environmental, and economic well-being of Hawaii's people. Over the years, however, concerns have been raised that certain provisions of this chapter no longer fully address the changing needs of the community.

Your Committees believe that such a review is necessary in order to ensure that Chapter 171, HRS, remains relevant to the constituency it is supposed to serve.

As affirmed by the records of votes of the members of your Committees on Planning, Land and Water Use Management and Agriculture, Labor, and Employment that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3293, H.D. 1, and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.

Ayes, 6. Noes, none. Excused, 5 (Baker, Holt, Ihara, Matsunaga, Solomon).

SCRep. 2281 Planning, Land and Water Use Management on H.B. No. 3769

The purpose of this bill is to authorize the Department of Land and Natural Resources (DLNR) to negotiate and enter into long-term leases with certain families who met eligibility requirements but were unable to complete lease arrangements with DLNR before the December 31, 1995, deadline set forth in Act 314, Session Laws of Hawaii 1991, as amended.

Your Committee finds that Act 314, Session Laws of Hawaii 1991, as amended by Act 172, Session Laws of Hawaii 1993, and Act 81, Session Laws of Hawaii 1994, authorized the DLNR to negotiate and enter into long-term leases of sixty-five years in duration, subject to renewal by mutual agreement, with persons who met both of the following criteria:

- (1) Persons living in Kalapana who were dispossessed or displaced as a result of the volcanic eruptions on the island of Hawaii which began on January 3, 1983; and
- (2) Persons who meet the qualifications of section 13D-3(b), Hawaii Revised Statutes.

Further, Act 314, Session Laws of Hawaii 1991, as amended, authorized the DLNR to negotiate and enter into lease arrangements in accordance with certain provisions and limitations; provided that the authority granted by Act 314, Session Laws of Hawaii 1991, as amended, expired:

- (1) When leases have been negotiated and recorded in the Bureau of Conveyances for all parcels meeting the criteria in that Act; or
- (2) On December 31, 1995; whichever occurred first.

Prior to the expiration of Act 314, Session Laws of Hawaii 1991, as amended, on December 31, 1995, the DLNR negotiated and entered into lease arrangements with forty-eight out of a total of fifty-eight persons who met both of the eligibility criteria as set forth under the Act. Due to circumstances beyond the control of the DLNR, ten persons who met both of the eligibility criteria for Kikala-Keokea residential leases, did not or could not enter into lease arrangements with the DLNR before the expiration date of December 31, 1995.

Accordingly, your Committee finds it prudent to extend the terms of Act 314, Session Laws of Hawaii 1991, as amended, to allow these ten persons to enter into long-term lease agreements with DLNR.

As affirmed by the record of votes of the members of your Committee on Planning, Land and Water Use Management that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3769, H.D. 3, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.

Ayes, 6. Noes, none. Excused, 1 (Holt).

SCRep. 2282 Planning, Land and Water Use Management on H.B. No. 3916

The purpose of this bill is to assist Hamakua and Hilo coast residents by extending the expiration date from June 30, 1996, to June 30, 1998, for the State to negotiate and enter into lease agreements for state agricultural lands.

Your Committee finds that Act 211, Session Laws of Hawaii 1994 (Act 211), sought to ameliorate the adverse economic impact placed on Hilo and Hamakua residents by the closure of area sugar plantations. Act 211 allowed qualified persons to enter into lease agreements that would enable area residents to utilize the former sugarcane lands to produce other crops and to keep the vacated lands in agricultural production.

Testimony in support of this measure was received from the Department of Land and Natural Resources and the Department of Agriculture.

As affirmed by the record of votes of the members of your Committee on Planning, Land and Water Use Management that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3916, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.

Ayes, 6. Noes, none. Excused, 1 (Holt).

SCRep. 2283 (Joint) Planning, Land and Water Use Management and Hawaiian Affairs on S.R. No. 3

The purpose of this Resolution is to request that the Legislative Reference Bureau (LRB) conduct a feasibility study on the transfer of Kahana State Park from the Department of Land and Natural Resources (DLNR) to the Office of Hawaiian Affairs.

Your Committees find that the Ahupua'a O' Kahana, otherwise known as Kahana State Park, is under the stewardship of the DLNR's Living Park Program. The Living Park Program, in part, allows residents of the park to live on land in exchange for participating in twenty-five hours of interpretive program services that share their knowledge of the area with others.

Your Committees also find that community criticism has arisen over the DLNR's stewardship of the Living Park Program at Kahana State Park and that the Office of Hawaiian Affairs should assume stewardship of the program, hence resulting in this Resolution.

Your Committees have amended the Resolution by requesting that the LRB include in its study:

- (1) The approximate acreage and appraised value of Kahana State Park;
- (2) A review and evaluation of the DLNR's Living Park Program at the Kahana State Park; and
- (3) A recommendation, if necessary, on how to improve the management of the Kahana State Park.

Your Committees have also amended the title of the Resolution to reflect the amendments made to its text.

Your Committees believe that prior to transfer of any land, a comprehensive review of existing policies and data must first be undertaken. Additionally, the exploration of all options should also be exhausted prior to such action. In light of this belief, your Committees feel that the amended Resolution will provide the LRB with the necessary flexibility to review information and practices that are vital to producing a sound recommendation to the Legislature.

As affirmed by the records of votes of the members of your Committees on Planning, Land and Water Use Management and Hawaiian Affairs that are attached to this report, your Committees concur with the intent and purpose of S.R. No. 3, as amended herein, and recommend that it be referred to the Committee on Ways and Means, in the form attached hereto as S.R. No. 3, S.D. 1.

Signed by the Chairmen on behalf of the Committees.
Ayes, 9. Noes, none. Excused, 3 (Graulty, Holt, McCartney).

SCRep. 2284 (Joint) Planning, Land and Water Use Management and Hawaiian Affairs on S.C.R. No. 7

The purpose of this Concurrent Resolution is to request that the Legislative Reference Bureau (LRB) conduct a feasibility study on the transfer of Kahana State Park from the Department of Land and Natural Resources (DLNR) to the Office of Hawaiian Affairs.

Your Committees find that the Ahupua'a O' Kahana, otherwise known as Kahana State Park, is under the stewardship of the DLNR's Living Park Program. The Living Park Program, in part, allows residents of the park to live on land in exchange for participating in twenty-five hours of interpretive program services that share their knowledge of the area with others.

Your Committees also find that community criticism has arisen over the DLNR's stewardship of the Living Park Program at Kahana State Park and that the Office of Hawaiian Affairs should assume stewardship of the program, hence resulting in this Concurrent Resolution.

Your Committees have amended the Concurrent Resolution by requesting that the LRB include in its study:

- (1) The approximate acreage and appraised value of Kahana State Park;
- (2) A review and evaluation of the DLNR's Living Park Program at the Kahana State Park; and
- (3) A recommendation, if necessary, on how to improve the management of the Kahana State Park.

Your Committees have also amended the title of the Concurrent Resolution to reflect the amendments made to its text.

Your Committees believe that prior to transfer of any land, a comprehensive review of existing policies and data must first be undertaken. Additionally, the exploration of all options should also be exhausted prior to such action. In light of this belief, your Committees feel that the amended Concurrent Resolution will provide the LRB with the necessary flexibility to review information and practices that are vital to producing a sound recommendation to the Legislature.

As affirmed by the records of votes of the members of your Committees on Planning, Land and Water Use Management and Hawaiian Affairs that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 7, as amended herein, and recommend that it be referred to the Committee on Ways and Means, in the form attached hereto as S.C.R. No. 7, S.D. 1.

Signed by the Chairmen on behalf of the Committees.
Ayes, 9. Noes, none. Excused, 3 (Graulty, Holt, McCartney).

SCRep. 2285 (Joint) Planning, Land and Water Use Management and Higher Education, Culture, and Arts on H.B. No. 3446

The purpose of this bill is to authorize a land exchange involving private lands and public lands for the proposed University of Hawaii West Oahu campus.

Your Committees received testimony from the University of Hawaii noting that the development of a permanent University of Hawaii West Oahu campus has been deferred for so long that serious questions have been raised regarding the continued accreditation of the University of Hawaii West Oahu. Further, the bill, as drafted, deletes the creation of a special fund dedicated to the development of the University of Hawaii West Oahu campus at Kapolei, as well as a special fund appropriation for fiscal year 1996-97 for CIP cost elements to initiate development of said campus. The creation of the special fund and the corresponding appropriation is crucial to the demonstration of a firm commitment to developing the University of Hawaii West Oahu campus at Kapolei, which commitment will minimize the potential of the imposition of heavy sanctions relating to the accreditation of this institution.

In light of the testimony received from the University of Hawaii, your Committees have amended this bill by deleting the substance of this bill in its entirety, and inserting therefor, the language from S.B. No. 2861, S.D. 1.

In addition, based on a condition reached during recent negotiations between the State and Campbell Estate relating to this land exchange, your Committees have amended this bill to reflect that the construction of the University of Hawaii West Oahu campus at Kapolei shall commence by December 31, 2006; provided that such commencement date shall be extended to December 31, 2011, if the Legislature appropriates funds for the planning and design of the campus by December 31, 2006.

Finally, your Committees have corrected errors in the acreage of the private land to be conveyed to the State, which acreage is now accurately reflected as nine-hundred-forty-one acres.

As affirmed by the records of votes of the members of your Committees on Planning, Land and Water Use Management and Higher Education, Culture, and Arts that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3446, H.D. 3, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3446, H.D. 3, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.

Ayes, 8. Noes, none. Excused, 4 (Fernandes Salling, Holt, Ikeda, McCartney).

SCRep. 2286 Planning, Land and Water Use Management on H.B. No. 3522

The purpose of this bill is to reduce appraisal costs for determining the sale price or lease rental of public lands to be disposed of by drawing or by negotiation.

Currently, when public lands are to be disposed of by sale or lease, the Department of Land and Natural Resources (DLNR) is required to pay the initial appraisal, causing considerable expense for the DLNR. Moreover, before an appraiser can be hired, the DLNR must go through the lengthy Chapter 103D, Hawaii Revised Statutes, procurement process.

The bill gives DLNR the option of relying on qualified, in-house personnel to determine the sale price or lease rental. If the purchaser disagrees with the sale price or lease rental, this bill gives the purchaser the option of appointing the purchaser's own appraiser. Together with DLNR's appraiser, this appraiser will appoint a third appraiser, and the final sale price or lease rental will be determined by arbitration.

Your Committee has amended the bill to allow the DLNR to use in-house personnel to also appraise agricultural lands.

Your Committee made this amendment based on the testimony of the DLNR which, in part, stated that allowing the DLNR to appraise agricultural lands in-house would provide them with greater flexibility to assist small farmers. The DLNR also assured your Committee that if allowed to conduct in-house appraisals, such appraisals would not adversely impact on small farms and other agricultural uses. Small farmers who are using their leased lands efficiently would benefit from the flexibility of in-house appraisals since the existing use of their lands would be a determining factor in establishing the fair market rent. Additionally, the Hawaii Farm Bureau testified that based on an understanding derived from its discussions with the DLNR, it had no objections to the DLNR conducting agricultural land appraisals in-house.

As affirmed by the record of votes of the members of your Committee on Planning, Land and Water Use Management that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3522, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3522, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.

Ayes, 6. Noes, none. Excused, 1 (Holt).

SCRep. 2287 Planning, Land and Water Use Management on H.B. No. 3523

The purpose of this bill is to allow the State to reduce overall costs relating to the reopening of negotiations on the amount of rent to be paid on the lease of public lands.

Currently, when the reopening of negotiations on the amount of rent to be paid on the lease of public lands occurs, the Department of Land and Natural Resources (DLNR) is required to pay for the initial appraisal, causing considerable expense for the DLNR. Moreover, before an appraiser can be hired, the DLNR must go through the lengthy Chapter 103D, Hawaii Revised Statutes, procurement process.

The bill gives DLNR the option of relying on qualified, in-house personnel to determine the lease rental. If the lessee disagrees with the lease rental amount, this bill gives the lessee the option of appointing the lessee's own appraiser. Together with DLNR's appraiser, the lessee's appraiser will appoint a third appraiser, and the final lease rental will be determined by arbitration.

Your Committee has amended the bill to allow the DLNR to use in-house personnel to also appraise agricultural lands.

Your Committee made this amendment based on the testimony of the DLNR which, in part, stated that allowing the DLNR to appraise agricultural lands in-house would provide them with greater flexibility to assist small farmers. The DLNR also assured your Committee that if allowed to conduct in-house appraisals, such appraisals would not adversely impact on small farms and other agricultural uses. Small farmers who are using their leased lands efficiently would benefit from the flexibility of in-house appraisals since the existing use of their lands would be a determining factor in establishing the fair market rent. Additionally, the Hawaii Farm Bureau testified that based on an understanding derived from its discussions with the DLNR, it had no objections to the DLNR conducting agricultural land appraisals in-house.

As affirmed by the record of votes of the members of your Committee on Planning, Land and Water Use Management that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3523, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3523, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Holt).

SCRep. 2288 Transportation and Government Affairs on H.B. No. 2658

The purpose of this bill is to:

- (1) Exempt persons seeking to reactivate an expired driver's license from being required to undergo a reexamination of their driving skills including the actual demonstration of the ability to operate a motor vehicle;
- (2) Require that a \$5 reactivation fee be paid by holders of expired licenses for each thirty-day period, or fraction thereof, that has elapsed after the ninety-day grace period; and
- (3) Provide that any license not reactivated within one year of its expiration date is invalid and not subject to reactivation.

The Department of Finance of the City and County of Honolulu testified in favor of this bill. The Department of Transportation had no objections.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2658, H.D. 3, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Taniguchi, Anderson).

SCRep. 2289 Transportation and Government Affairs on H.B. No. 2825

The purpose of this bill is to clarify brewpub activities. Specifically, this bill:

- (1) Includes brewpub licensees in the definition of "retail licensee" found in section 281-1, Hawaii Revised Statutes (HRS);
- (2) Allows brewpubs to sell malt beverages they manufacture, in brewery-sealed packages, to wholesale licensees, pursuant to conditions imposed by county planning and public works departments;
- (3) Limits brewpub licensees to selling only liquors purchased from class 1 manufacturer licensees or from class 3 wholesale dealer licensees for consumption by consumers; and
- (4) Makes technical, nonsubstantive amendments to section 281-42(a), HRS, for purposes of clarity and style.

Testimony in support of the measure was received from the Director of Finance, City and County of Honolulu, the Director of the Department of Liquor Control, County of Kauai, the Director of Liquor Control, County of Hawaii, and the Retail Liquor Dealers Association.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2825, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Taniguchi, Anderson).

SCRep. 2290 Transportation and Government Affairs on H.B. No. 2830

The purpose of this bill is to require the Public Utilities Commission (PUC) to provide for a rate discount for water carriers for the shipping of island agricultural products in accordance with rules adopted pursuant to chapter 91, Hawaii

Revised Statutes. The bill also defines "island agricultural products" to mean fresh agricultural products grown in Hawaii.

Your Committee has amended this bill to prohibit the PUC from approving any rate, fare, or charge of water carriers that does not provide a discount for the transportation of island agricultural products instead of requiring the PUC to provide for a rate discount. The definition of "island agriculture products" has also been amended to delete "bottled water" and to add "livestock".

Your Committee believes that this bill would facilitate the transportation and marketing of island agricultural products, and thus promote this highly important industry. Transportation costs are a critical component of the pricing of these products, where even a few cents difference could make a big difference in profitability.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2830, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2830, H.D. 2, S.D. 1, and be referred to the Committee on Communications and Public Utilities.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Taniguchi, Anderson).

SCRep. 2291 Planning, Land and Water Use Management on H.B. No. 4074

The purpose of this bill is to enable the Board of Land and Natural Resources (BLNR) to enter into a land exchange involving private lands north of Wahiawa, Oahu, owned by the George Galbraith Estate, and public lands.

Specifically, the bill enables the BLNR to enter into negotiations for a land exchange with the George Galbraith Estate so that the State may acquire private lands north of Wahiawa, Oahu, in exchange for conveying public lands; provided that:

- (1) In determining the "fair market" value of the private land, the private land shall be appraised as agricultural;
- (2) The "fair market" value of the private land and the public land shall be separately determined by a disinterested qualified appraiser or appraisers, and the cost shall be borne equally between the owner and the BLNR;
- (3) No payment by the State shall be required should the private land exceed the value of the public land, but any difference in value of the public land over the private land shall be paid to the State at the time of the exchange; provided that no exchange shall be made should the value of the public land exceed one hundred twenty per cent of the value of the private land; and
- (4) No land exchange shall be consummated if the private land is included as part of a site listed on the National Priorities List (NPL) pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986.

Your Committee finds that Act 177, Session Laws of Hawaii 1994, approved a land exchange involving the Galbraith lands and public lands in Kapolei, Oahu. This law was automatically repealed on June 30, 1995. During the 1995 session, the Legislature passed S.B. No. 1650 which would have extended the repeal date in Act 177 to June 30, 1996. However, the Governor vetoed this bill in large part due to liability concerns. Specifically, some of the Galbraith lands had been included as part of the Del Monte Superfund Site under the federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), which governs the clean-up of toxic waste sites.

According to the Hawaiian Trust Company, the primary reason for listing the Del Monte Oahu Plantation on the National Priorities List is due to the contamination of the Kunia well located on lands not owned by the Galbraith Trust. The Kunia site, which is the focus of the Environmental Protection Agency investigation, is located five miles from the nearest Galbraith parcel.

Your Committee has amended the bill by:

- (1) Clarifying that the purpose of the land exchange is to provide the State with additional agricultural lands in Central Oahu;
- (2) Amending section 3 of the bill by removing the language that provides legislative approval of a land exchange between the State and the Galbraith Estate and replacing it with language that requires the BLNR to submit a report to the Legislature prior to the 1997 Regular Session that provides specific details of the exchange negotiated pursuant to this bill; and
- (3) Including within the reporting requirement criteria a determination by the BLNR as to whether the public lands to be exchanged are ceded lands.

Your Committee believes that since no specific details are forthcoming regarding the land exchange, the more prudent approach would be to first ascertain the lands and factors involved prior to any authorization for an exchange.

As affirmed by the record of votes of the members of your Committee on Planning, Land and Water Use Management that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4074, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 4074, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Ige, Ihara, Anderson).

SCRep. 2292 Communications and Public Utilities on H.B. No. 3154

The purpose of this bill is to transfer the functions and administration of the public access room to the Legislative Reference Bureau and provide year-round funding for the room.

Your Committee finds that the public access room has been a major component of the Legislature's public access program since its establishment in 1990. It continues to provide staff and assistance to educate citizens in the legislative process and the use of computer technology for retrieving legislative information. It is, for many people, the only source of information and assistance regarding important legislative measures and hearings.

Your Committee believes that the services provided to the public by the Legislative Reference Bureau are compatible with the functions of the public access room and that after the proposed transfer the bureau will provide an effective administrative and oversight structure for the room.

Your Committee has amended this measure by deleting all existing language and substituting language from S.B. No. 3268, S.D. 2, which, in addition to providing for the transfer of the public access room to the Legislative Reference Bureau and appropriating funds for year-round financing of the room, also appropriates funds for broadcasts of legislative proceedings and the legislative internet project, and establishes a joint legislative access committee to oversee and review the operations of the Legislature's public access program.

Your Committee has further amended this measure by adding language requesting the Public Utilities Commission to cablecast selected commission proceedings of interest to the public on cable television public access channels with timely notice provided to the public, and requiring the Commission to report to the Legislature prior to the 1997 Regular Session regarding its progress with cablecasting.

As affirmed by the record of votes of the members of your Committee on Communications and Public Utilities that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3154, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3154, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Chumbley, Kanno, Matsuura).

SCRep. 2293 Tourism on H.B. No. 3638

The purpose of this bill is to delete the penalty of imprisonment not to exceed thirty days in jail for parking violations in Aloha stadium.

Your Committee finds that many parking offenses have been decriminalized to traffic infractions with monetary penalty provisions. Your Committee further finds that similar decriminalization should be applied to parking offenses within the Aloha stadium.

As affirmed by the record of votes of the members of your Committee on Tourism and Recreation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3638, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Fukunaga, Iwase).

SCRep. 2294 Communications and Public Utilities on H.B. No. 1951

The purpose of this bill is to require utilities to notify their customers of rate case public hearings by U.S. mail, at their last known billing address, not less than thirty days before the public hearing. It also requires utilities to use common everyday language in the notices.

Your Committee finds that under current law, the only notification requirement for rate case public hearings is advertisement in a newspaper of general circulation in the State. The public utilities commission is required to publish three notices in the newspaper once in each of three weeks prior to the hearing and the utility is required to publish an additional notice not less than one week prior to the hearing.

Your Committee believes that requiring direct notice by mail of public hearings and proposed changes in rates will encourage ratepayer participation in rate case hearings and help to ensure that the regulatory process is open and accessible to the general public.

As affirmed by the record of votes of the members of your Committee on Communications and Public Utilities that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1951, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Chumbley, Kanno, Matsuura).

SCRep. 2295 Transportation and Government Affairs on H.B. No. 3211

The purpose of this bill is to require the counties to enact an impact fee ordinance and adopt rules regarding the imposition and collection of the fees before assessing an impact fee on developments.

The Chamber of Commerce of Hawaii, the Construction Industry Legislative Organization, and the Department of Education submitted testimony in support of this measure.

Your Committee has amended the bill to add a new section to the Hawaii Revised Statutes (HRS) which provides that no State agency shall assess impact fees unless it first develops a schedule of impact fees adopted under chapter 91, HRS. The bill also sets forth necessary definitions for the new HRS section.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3211, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3211, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Taniguchi, Anderson).

SCRep. 2296 Transportation and Government Affairs on H.B. No. 3581

The purpose of this bill is to conform the State's commercial driver's licensing requirements with the mandates of federal law.

This administration bill redefines "out-of-service order" as a declaration by an authorized enforcement officer that a driver, a commercial motor vehicle, or a motor carrier operation is out-of-service pursuant to applicable federal law. The bill also prohibits an employer from allowing, permitting, or authorizing an individual to drive a commercial vehicle during any time when the employee, the vehicle, or the motor carrier operation is subject to an out-of-service order and subjects any employer violating this provision to a fine of not less than \$2,500 nor more than \$10,000.

According to supporting testimony of the State Department of Transportation, state law must reflect federal requirements or risk losing federal highway funds of approximately \$5 million in the first year and \$10 million a year thereafter.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3581 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Anderson).

SCRep. 2297 Transportation and Government Affairs on H.B. No. 3618

The purpose of this bill is to authorize and create a process by which the Joint Legislative Management Committee can conduct a review of an administrative rule to determine, among other things, whether the rule: is consistent with the statute it implements; is reasonable; tends to promote any abuse of discretionary power by the agency; and, if fees are charged, provides fees related to the costs of administration.

Testimony was submitted by the Department of the Attorney General which opposed the bill on the basis that the bill is duplicative of the provisions for rule review already in chapter 91, Hawaii Revised Statutes (HRS), and would cause disrespect for administrative rules and collateral attacks on the rules. The Department of Education submitted testimony in opposition to the bill on the basis that legislative review is duplicative of the Auditor's review under section 91-4.1, HRS.

Your Committee believes that although chapter 91, HRS, presently provides for administrative review, this bill will provide for direct legislative review.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3618, H.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Anderson).

SCRep. 2298 Transportation and Government Affairs on H.B. No. 4111

The purpose of this bill is to implement the recommendations contained in the Legislative Auditor's January 1996 audit of the administration of the purchase of services contracts under chapter 42D, Hawaii Revised Statutes (HRS). In particular the the bill:

- (1) Amends chapter 42D, HRS, to apply only to grants and subsidies, to remove references to purchase of services, and to eliminate the executive coordinating council and the advisory council;
- (2) Amends chapter 103D, HRS, to apply to purchase of service contracts;
- (3) Allows multi-year purchase of service contracts for up to four years;

- (4) Provides for the appointment of an administrator who, with the cooperation of state agencies, shall design and implement a transition plan to facilitate transfer of the administration of the purchase of services system;
- (5) Creates new advisory councils for the Department of Health, the Department of Human Services, the Department of Labor and Industrial Relations, and the Judiciary;
- (6) Creates a policy group to monitor and facilitate implementation of the transition plan;
- (7) Amends Act 194, Session Laws of Hawaii 1992, to clarify the sunset provisions affecting chapter 42D, HRS; and
- (8) Makes conforming amendments to the HRS.

Testimony was submitted by the Department of Accounting and General Services, the Department of Human Services, the Judiciary, the Hawaii Youth Services Network, the Alliance for Health and Human Services, and the Hemophilia Foundation of Hawaii.

Your Committee learned that although there is consensus that the present purchase of service process under chapter 42D, HRS, is not working, there is no consensus as to how to improve the system. Most enthusiasm was expressed for the idea of a two-year transition period. There was great concern expressed that the transfer of purchase of services to chapter 103D, HRS, was inappropriate.

Your Committee has amended the bill by deleting its provisions and replacing them with provisions to:

- (1) Clarify the sunset provision under Act 194, Session Laws of Hawaii 1992, and to extend chapter 42D, HRS, for two more years until July 1, 1998, at which time the responsibility for purchase of services contracts will be transferred to the State Procurement Office;
- (2) Provide that during the two-year transition period the Administrator of the State Procurement Office, in consultation with providers and state departments, shall develop a new procedure for processing purchase of service contracts which will utilize advisory council or councils;
- (3) Require the Administrator to report to the Legislature after the end of the first transition year; and
- (4) Make necessary technical amendments.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4111, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 4111, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Anderson).

SCRep. 2299 Ecology and Environmental Protection on H.B. No. 2584

The purpose of this bill is to clarify that the Governor may call a meeting of the Hawaii State Emergency Response Commission (Commission) at any time during an emergency without the necessity of complying with notice requirements of chapter 92, Hawaii Revised Statutes (HRS).

The purpose of the Commission is to establish statewide coordination and planning for hazardous materials emergency response. During an event or series of events, the Commission is the organization which brings together all of the state, county, and private response organizations to evaluate the situation and to redirect resources accordingly. As such, the Commission needs to be able to meet quickly, even if an imminent peril does not exist.

Under present law, section 92-8, HRS, provides that any board (includes a commission) may hold an emergency meeting without complying with the six day notice requirement if the board finds that an imminent peril to the public health, safety, or welfare requires a meeting in less than that time. This bill specifically adds the Commission to that section for emergency meetings, but without the necessity that the Commission find an imminent peril to exist. Regular meetings of the Commission would be required to comply with chapter 92, HRS.

Your Committee received supporting testimony from the Department of Health indicating that during the recent events in Campbell Industrial Park, the Commission was hindered in its ability to hold a meeting due to the current notice requirements. The difficulty was in determining whether an imminent peril existed because the emergency consisted of a series of single events, each of which was difficult to characterize as an imminent peril.

As affirmed by the record of votes of the members of your Committee on Ecology and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2584, H.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Aki, Chumbley).

SCRep. 2300 Transportation and Government Affairs on H.B. No. 404

The purpose of this bill is to allow the county liquor commissions to accumulate a reasonable reserve fund, not to exceed twenty per cent of their current budget, from the liquor license fees collected. All funds in excess of twenty per cent of their budget are to be returned or credited to existing licensees.

Favorable testimony was received from the Department of Finance of the City and County of Honolulu, the Departments of Liquor Control for the Counties of Hawaii, Maui, and Kauai, and Legislative Information Services of Hawaii.

Your Committee learned that the county liquor commissions are intended to be financially autonomous agencies funded through the collection of license fees. There is no provision that allows the commissions to accumulate a reserve fund to meet unforeseen expenditures such as unexpected retirements, breakdown in office equipment and automobiles, or law suits. This bill will allow the commissions to maintain a reasonable reserve.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 404 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Anderson).

SCRep. 2301 Transportation and Government Affairs on H.B. No. 2972

The purpose of this bill is to enhance a county's ability to collect civil fines by:

- (1) Repealing the sunset provision in Act 168, Session Laws of Hawaii 1993, thereby extending the county fine program under Section 46-1.5(24), Hawaii Revised Statutes; and
- (2) Providing procedural safeguards for citizens such as:
 - (A) Providing that no fine may be collected until after an opportunity for hearing, and by requiring that any appeal of an administratively imposed civil fine be filed within thirty days from the date of the final written decision;
 - (B) Clarifying that unpaid civil fines, whether ordered by a court of competent jurisdiction or administratively imposed, cannot be added to fees or charges for water for residential use or sewer charges;
 - (C) Providing for the review of the appropriateness of the amount of civil fines which accrued during a violator's unsuccessful appeal of the county's enforcement action;
 - (D) Establishing the date when an administratively imposed fine becomes due and collectible; and
 - (E) Requiring that counties establish by ordinance a county agency to conduct appeal proceedings for particular civil fine actions if one does not already exist prior to imposing any civil fines.

The Office of State Planning, the Building Department of the City and County of Honolulu, the Department of Finance of the City and County of Honolulu, the Department of Corporation Counsel of the City and County of Honolulu, the Department of Public Works of the City and County of Honolulu, the Department of Land Utilization of the City and County of Honolulu, the Office of the Corporation Counsel for the County of Hawaii, the Planning Department of the County of Maui, the Office of the County Attorney, the Planning Department, and the Department of Public Works for the County of Kauai submitted testimony in support of this measure.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2972, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Anderson).

SCRep. 2302 Transportation and Government Affairs on H.B. No. 3151

The purpose of this bill is to exempt first-time offenders of driving without a valid no-fault policy in effect at the time of the citation from the requirement of posting proof of financial responsibility.

This bill provides as follows:

- (1) Limits the fine of \$1,500 for subsequent offenses to a five-year period;
- (2) For the first conviction, does not require the driver or the registered owner to maintain proof of financial responsibility, but does require it for subsequent offenses within a five-year period; and
- (3) Limits the penalties for multiple convictions to a five-year period from any prior conviction.

Your Committee received supporting testimony from the State Insurance Commissioner that this bill would ease the financial burden of first time offenders of having to obtain and maintain proof of financial responsibility, which may be economically unbearable with the high cost of insurance premiums in Hawaii.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3151, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Anderson).

SCRep. 2303 Transportation and Government Affairs on H.B. No. 3579

The purpose of this bill is to establish a Transportation Improvement Revolving Fund to:

- (1) Fund transportation projects that are identified in or are consistent with the statewide transportation plan and satisfy all federal and state eligibility requirements;
- (2) Provide sums necessary to advance transportation projects when the Director of Transportation determines that previously authorized funds are inadequate, and any delay in completion would unnecessarily increase their cost or intensify undesirable transportation conditions; and
- (3) Receive reimbursements from developers who have been advanced public funds to fulfill the conditions of land use development relating to transportation, or other transportation requirements imposed on such developers.

The Department of Transportation, the City and County of Honolulu Planning Department, the Leeward Oahu Transportation Management Association, the Planning Departments for the counties of Maui, Kauai, and Hawaii, the Department of Public Works for the County of Hawaii, and the Oahu Metropolitan Planning Organization submitted testimony in support of this bill.

Your Committee has amended this bill by making technical, nonsubstantive amendments for purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3579, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3579, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Solomon).

SCRep. 2304 Economic Development on H.B. No. 2539

The purpose of this bill is to authorize the issuance of special purpose revenue bonds to assist Encogen Hawaii, L.P., a Delaware limited partnership, in the construction of a cogeneration power plant that will sell the electrical power it produces to the Hawaii Electric Light Company, Inc.

Your Committee finds that the sixty megawatt cogeneration power plant being planned in Hamakua by Encogen Hawaii, L.P. will provide reliable electrical power and various other economic benefits to the people of Hawaii county. This is consistent with the State's goal of encouraging the development of energy projects that make electricity available to the general public.

Your Committee therefore finds that the issuance of special purpose revenue bonds under this bill is in the public interest and for the public health, safety, and general welfare.

As affirmed by the record of votes of the members of your Committee on Economic Development that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2539 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Ige).

SCRep. 2305 Economic Development on H.B. No. 3361

The purpose of this bill is to provide emergency funding for the Hawaii Film Facility.

This bill, recommended by the Governor for immediate passage in accordance with Article VII, section 9, of the Hawaii Constitution, increases the authorized spending level of the Hawaii Film Facility Special Fund from \$83,500 to \$150,000 for the current fiscal year, which ends on June 30, 1996.

Your Committee finds that without the increased expenditure ceiling, no further expenditures can be made, including those necessary for repair and maintenance. It further finds that this special fund appropriation reflects additional available receipts and an attendant commitment of increased program funding collateral to the receipt of revenues.

As affirmed by the record of votes of the members of your Committee on Economic Development that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3361, H.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Ige).

SCRep. 2306 Economic Development on H.B. No. 3976

The purpose of this bill is to authorize the issuance of a special purpose revenue bond to finance the provision of grid-connected and off-grid solar electric photovoltaic systems in Hawaii county, Maui county, and Kauai county.

Your Committee finds that the bond issuance authorized by this Act will help PowerLight Corporation, or a partnership in which PowerLight Corporation is a general partner, to establish photovoltaic power systems that may further diversify electrical power generation in the State.

Your Committee therefore finds that this bill is in the public interest and will be beneficial to the public's health, safety, and general welfare.

As affirmed by the record of votes of the members of your Committee on Economic Development that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3976, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Ige).

SCRep. 2307 Planning, Land and Water Use Management on H.B. No. 3766

The purpose of this bill is to extend to fiscal year 1996-1997, the authorization to expend funds previously authorized for the benefit of the Hilo-Hamakua community.

Your Committee has amended the bill by deleting section 2 of the bill relating to Act 311, Session Laws of Hawaii 1993, because pursuant to Article VII, Section 11, of the Hawaii State Constitution, no appropriation shall be made for a period exceeding three years.

As affirmed by the record of votes of the members of your Committee on Planning, Land and Water Use Management that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3766, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3766, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Ige, Ihara, Anderson).

SCRep. 2308 Planning, Land and Water Use Management on S.R. No. 9

The purpose of this Resolution is to approve of a land exchange in Waimanalo between the Board of Land and Natural Resources and Stewart Lundy Wade and Arla Wagers Wade.

Your Committee finds that Section 171-50, Hawaii Revised Statutes, requires the Department of Land and Natural Resources to submit for introduction to the Legislature a resolution for review of action of any exchange twenty days prior to the start of any regular or special session.

Your Committee also finds that the State of Hawaii, through the Board of Land and Natural Resources, has entered into a land exchange with Stewart Lundy Wade and Arla Wagers Wade for the conveyance of certain state-owned lands in Waimanalo in exchange for the conveyance by Stewart Lundy Wade and Arla Wagers Wade of certain lands also in Waimanalo which is required by the State for development of the Waimanalo Agriculture Park Subdivision, Phase II Project.

Your Committee believes that the land exchange is in the best interest of the State and would further promote the expedient growth of the Waimanalo Agriculture Park Project.

As affirmed by the record of votes of the members of your Committee on Planning, Land and Water Use Management that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 9 and recommends its adoption.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Holt, Ihara, Anderson).

SCRep. 2309 Planning, Land and Water Use Management on S.C.R. No. 15

The purpose of this Concurrent Resolution is to approve of a land exchange in Waimanalo between the Board of Land and Natural Resources and Stewart Lundy Wade and Arla Wagers Wade.

Your Committee finds that Section 171-50, Hawaii Revised Statutes, requires the Department of Land and Natural Resources to submit for introduction to the Legislature a resolution for review of action of any exchange twenty days prior to the start of any regular or special session.

Your Committee also finds that the State of Hawaii, through the Board of Land and Natural Resources, has entered into a land exchange with Stewart Lundy Wade and Arla Wagers Wade for the conveyance of certain state-owned lands in Waimanalo in exchange for the conveyance by Stewart Lundy Wade and Arla Wagers Wade of certain lands also in Waimanalo which is required by the State for development of the Waimanalo Agriculture Park Subdivision, Phase II Project.

Your Committee believes that the land exchange is in the best interest of the State and would further promote the expedient growth of the Waimanalo Agriculture Park Project.

As affirmed by the record of votes of the members of your Committee on Planning, Land and Water Use Management that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 15 and recommends its adoption.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Holt, Ihara, Anderson).

SCRep. 2310 (Joint) Planning, Land and Water Use Management and Judiciary on H.B. No. 3534

The purpose of this bill is to improve and coordinate Hawaii's boating, ocean recreation, and coastal area enforcement programs by transferring the Marine Patrol Program from the Department of Public Safety (PSD) to the Department of Land and Natural Resources (DLNR) and integrating the Harbor Patrol Program into the Statewide Commercial Harbors Program by transferring those functions from the PSD to the Department of Transportation.

Although your Committees agree that the Marine Patrol would be better suited under DLNR, your Committees believe that the Marine Patrol transfer issue which is already addressed in S.B. No. 2458, should be discussed separately from the Harbor Patrol transfer issue.

In light of this belief, your Committees have amended the bill by deleting all references to the Marine Patrol Program.

Testimony provided by the Hawaii Government Employees Association raised a concern that if such a transfer is enacted, then government employees who currently occupy the transferred positions should be transferred and retained.

As affirmed by the records of votes of the members of your Committees on Planning, Land and Water Use Management and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3534, H.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3534, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.
Ayes, 10. Noes, none. Excused, 2 (Holt, Ihara).

SCRep. 2311 Higher Education, Culture, and Arts on H.B. No. 2821

The purpose of this bill is to amend section 198-1, Hawaii Revised Statutes (HRS), by expanding the definition of conservation easement to include the preservation of cultural landscapes, family cemeteries, resources, and sites which perpetuate the indigenous native Hawaiian culture, and historic properties as defined in section 6E-2, HRS.

Your Committee finds that conservation easements are a non-regulatory land use tool which provide a tax incentive for landowners who help to preserve cultural resources.

Your Committee received testimony in support of the bill from the Board of Land and Natural Resources, the Land Use Research Foundation, and the Office of Hawaiian Affairs.

As affirmed by the record of votes of the members of your Committee on Higher Education, Culture, and Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2821, H.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Planning, Land and Water Use Management.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Fernandes Salling, Ikeda, Taniguchi).

SCRep. 2312 Higher Education, Culture, and Arts on H.B. No. 3833

The purpose of this bill is to allow the Board of Regents of the University of Hawaii (Board) to establish resident tuition fees and differential fees for nonresident students at an open public meeting under chapter 92, Hawaii Revised Statutes (HRS), without complying with the rulemaking requirements under chapter 91, HRS, if there is first a public information meeting held during or prior to the semester in which the fees apply.

Chapter 92, HRS, is the State's sunshine law for open public meetings, and chapter 91, HRS, is the State's administrative procedures law. This bill would allow the Board to change the tuition after a public meeting and without the restrictions of rulemaking, to simplify and streamline the tuition setting process. However, the Board is required to hold a public information meeting before the public meeting under chapter 92, HRS. Therefore, two public meetings are required: the first for information and the second to satisfy the sunshine law.

This bill also exempts from chapter 91, HRS, the assessment of various state service fees. Those fees are made subject to the approval of the Governor, excepting those pertaining to the University of Hawaii, the community colleges, university parking, and university construction. Those university related fees are made subject to the approval of the Board with a prior public information meeting.

Your Committee has amended this bill to make technical, nonsubstantive amendments for punctuation.

As affirmed by the record of votes of the members of your Committee on Higher Education, Culture, and Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3833, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3833, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Ikeda, Taniguchi).

SCRep. 2313 Judiciary on H.B. No. 3348

The purpose of this bill is to ensure the continued funding of the Department of the Attorney General's Medicaid Investigations Division by making an emergency appropriation for fiscal year 1995-1996.

This bill is a companion to S.B. No. 2695, which passed out of this Committee on February 12, 1996. The bill appropriates \$77,926 of special funds, of which \$51,871 is for employee fringe benefits and \$20,955 is for lease payments and investigative expenses. These funds are necessary as a result of a shift in the funding resources of the Medicaid Investigations Division made by the Legislature during the 1995 Special Session. No general funds are being appropriated. Without these funds the Department of the Attorney General will be unable to meet its fiscal obligations to investigate and prosecute health care fraud and patient abuse for the current fiscal year 1995-1996.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3348 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (McCartney).

SCRep. 2314 Judiciary on H.B. No. 3537

The purpose of this bill is to appropriate \$1,244,780 for deposit into the criminal injuries compensation fund to compensate victims of crime, their service providers, and dependents.

Your Committee finds that, pursuant to chapter 351, Hawaii Revised Statutes, the criminal injuries compensation commission is charged with determining the appropriate compensation for victims of crime, including: actual victims of certain offenses; persons who have suffered loss or incurred hospital, medical, funeral, or burial expenses as a result of a victim's injury or death; dependents of a deceased victim; and persons who suffer personal injury or property damage in the course of preventing a crime.

Your Committee further finds that the appropriations in this bill are necessary to fund the awards made by the commission between July 1, 1994 and June 30, 1995. Moreover, your Committee believes that this support for victims of crime is a necessary and just measure that makes somewhat more bearable the physical, psychological, and emotional injuries suffered by victims of crime and their dependents.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3537, H.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (McCartney).

SCRep. 2315 Judiciary on H.B. No. 3540

The purpose of this bill is to enable the Department of Public Safety to complete the renovations planned for the Olomana Cottage of the state Women's Community Correctional Center by the end of fiscal year 1995-1996 instead of 1996-1997.

Your Committee finds that due to inadequate bedspace at the state Women's Community Correctional Center, a number of adult female inmates are presently being held at the Oahu Community Correctional Center. The renovations currently underway at the state Women's Community Correctional Center will provide the space needed to accommodate these inmates. Upon completion of the project, the female inmates will be transferred back to the Women's Community Correctional Center. This bill provides the funds to expedite the renovations planned for the center.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3540, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (McCartney).

SCRep. 2316 Judiciary on H.B. No. 3545

The purpose of this bill is to allow the Department of Public Safety to assign the collection and maintenance of information and statistics to the appropriate office or agency.

Specifically, this bill deletes the requirement for the Intake Service Center Division of the Department of Public Safety to centralize the collection and maintenance of all information and statistics relating to detained and committed persons under the Department's jurisdiction.

According to testimony by the Director of Public Safety, before the creation of the Department of Corrections and later, the Department of Public Safety, data collection and maintenance had been centralized and rested with the intake service centers. Currently, however, this responsibility has been transferred to general administration. However, statutory responsibility for this task remains with the intake service centers. Deletion of this responsibility from the intake service centers will conform the Hawaii Revised Statutes with current practice.

Your Committee finds that this bill will not only conform the Hawaii Revised Statutes with current practice but will also enable the Department of Public Safety to better administer data collection and maintenance.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3545 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 7. Noes, none. Excused, none.

SCRep. 2317 Judiciary on H.B. No. 3548

The purpose of this bill is to make an emergency appropriation to the Department of Public Safety to provide for the continued operations of its programs for fiscal year 1995-1996.

Your Committee finds that this funding emergency was created by the Department's attempt to alleviate the severe overcrowding in state correctional facilities by entering into an agreement with Newton County, Texas, to house three hundred Hawaii inmates in Texas facilities at a cost of \$42 per day per inmate. Funding this agreement, however, will cause various programs in the Department to expend all appropriated funds before the end of the current fiscal year. Your Committee finds that this bill, which has been recommended by the Governor for immediate passage, is necessary to prevent the shutdown of essential operations at state correctional facilities, prevent the possibility of the filing of lawsuits based on unconstitutional conditions at these facilities, and protect the health and safety of the public.

Upon further consideration, your Committee has amended this bill by adding a new section 2 to comply with article VII, section 9, of the Hawaii Constitution with respect to exceeding the general fund expenditure ceiling, and by renumbering the remaining sections.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3548, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3548, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (McCartney).

SCRep. 2318 Judiciary on H.B. No. 3549

The purpose of this bill is to make an emergency appropriation to expand the therapeutic drug treatment programs of Hawaii's correctional facilities.

Specifically, this bill appropriates \$306,477 for fiscal year 1995-1996 for the expansion of the therapeutic community drug treatment programs in the correctional facilities, to be expended by the Department of Public Safety.

Your Committee notes that this bill is a companion bill to S.B. No. 2893, which was heard earlier by your Committee and adopted in amended form by the Senate.

Your Committee finds that the majority of inmates in Hawaii's prisons suffer from some form of chemical dependency. Having no program to treat these problems while inmates are still in the system lays down the potential for repeat offenses and further prison overcrowding. Your Committee believes that drug treatment programs such as the Department of Public Safety's KASHBOX program help rehabilitate inmates prior to their release, thereby protecting the community and helping to control the size of Hawaii's prison population.

Your Committee has amended this bill to add a new section 2 containing general fund expenditure ceiling language.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3549, H.D. 1, as amended herein, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means in the form attached hereto as H.B. No. 3549, H.D. 1, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (McCartney).

SCRep. 2319 Judiciary on H.B. No. 3724

The purpose of this bill is to allow the Kaho'olawe Island Reserve Commission to hire its own attorneys for its legal services.

Specifically, this bill exempts the Commission from the general prohibition against state agencies retaining their own attorneys. Additionally, this measure specifies that Commission attorneys are not deemed deputy attorneys general.

Your Committee notes that the Commission was created in 1993 to have control and management over the Kaho'olawe island reserve until that responsibility can be transferred to a sovereign native Hawaiian entity. Your Committee finds that the Commission's recent and trying experiences during final negotiations with the United States Navy over the multi-year clean up of Kaho'olawe underscores the Commission's need for full-time legal services now and in the future. This need is not presently being met by the Attorney General, and will soon be imminent due to the growing complexity of the law.

Moreover, the Commission occupies a sensitive legal status with regard to the control and management of the island reserve. Although the Commission is administratively placed within the Department of Land and Natural Resources, the Department and other state departments and agencies are subject to the Commission's oversight in those control and management matters. Also complicating the relationship of the Commission to other governmental agencies is the fact that certain powers and duties which had been previously conferred on other state and county agencies have now been transferred to the Commission. Perceived conflicts of interest could arise if the Commission and the other state agencies find themselves at odds with each other but represented on either side by the Attorney General, regardless of any blindfolding devices employed.

Your Committee also finds that the Commission's hiring of its own counsel will not adversely impact state general funds. The position is expected to be federally funded through the rehabilitation trust fund, which was set up to receive moneys from the federal government for the rehabilitation and environmental restoration of the island.

Your Committee notes that this measure is substantially identical to S.B. No. 3057, S.D. 1, which was passed out earlier by your Committee.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3724 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Matsuura, McCartney, Tam).

SCRep. 2320 Health on H.B. No. 2576

The purpose of this bill is to allow non-patient spouses of patients residing at Kalaupapa to reside with the patient-spouse at the request of that patient.

The non-patient spouse would not be entitled to any services or benefits accorded to the patient-spouse.

Your Committee believes that non-patient spouses should be able to reside with their patient-spouses at Kalaupapa, as a practical and humane matter.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2576, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kanno).

SCRep. 2321 Health on H.B. No. 3505

The purpose of this bill is to amend the reproductive rights protection committee statute to exclude the state planning council on developmental disabilities from participating in the committee and to remove the committee's ability to hire staff.

Your Committee agreed with the recommendation of the state planning council on developmental disabilities and amended this bill by conditioning the implementation of the Act on the execution of a memorandum of understanding, between the department of health and the council, which preserves confidentiality and stipulates noninterference by the department.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 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 the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kawamoto).

SCRep. 2322 Health on H.B. No. 3809

The purpose of this bill is to reduce the illegal sale of tobacco products to minors by improving the signage requirements for the sale of tobacco products in retail establishments.

Your Committee finds that the current law requires signs displaying the statement, "The Sale of Tobacco Products to Persons Under Eighteen is Prohibited" must be in capital letters that are one inch in height, and thus the signs are often too large to be posted in locations close to the point of sale. Your Committee agrees that reducing the size of the lettering will allow signage that can be more easily designed and posted at the point of sale, and, thereby, provide an additional deterrent to illegal sales of tobacco products to minors.

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

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3809, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3809, H.D. 1, S.D. 1, and be referred to the Committee on Consumer Protection.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kawamoto).

SCRep. 2323 Health on H.B. No. 1386

The purpose of this bill is to provide a penalty for operation of an unlicensed facility required to be licensed by the Department of Health (DOH).

Your Committee finds that unlicensed health facilities present a danger to the public health and welfare.

Your Committee has amended this bill by changing the fine from \$100 a day to a fine of up to \$100 a day.

Your Committee has further amended this bill to appropriately enact recommendations of the task force convened by the Department of Health (DOH) to review the responsibilities and functions of the State Health Planning and Development Agency (SHPDA).

In 1995, the Legislature passed Senate Concurrent Resolution No. 243 to request the DOH to convene a task force to review SHPDA. The overall recommendation of the task force was to reform SHPDA to streamline it and make it more efficient. This bill implements many of the specific recommendations and provides for a mechanism to address other issues raised in the task force report. Most notably, the bill, as amended, repeals the review panel; specifies in the provision delineating the membership of the statewide council to include representation from large and small business, physicians, nurses, and hospitals; requires the publication of notice of applications accepted for review to invite public comment; requires the submission of a report to the Legislature on the progress in implementing the task force recommendations; exempts from the certificate of need requirement, capital expenditures for facilities which are not health care facilities, such as a parking structure that may be attached to a hospital or clinic; and requires the Governor to convene a task force in the year 2000 to evaluate SHPDA's progress and the need to continue SHPDA.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1386, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1386, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kanno).

SCRep. 2324 Health on H.B. No. 2549

The purpose of this bill is to clarify the duties of the State Planning Council on Developmental Disabilities (Council) for the developmentally disabled.

This bill would:

- (1) Substitute the phrase "the developmentally disabled" with "individuals with developmental disabilities" (individuals);
- (2) Require the Council to include deinstitutionalization of those individuals at Waimano Training School and Hospital in its evaluation function; and
- (3) Require the Council in its advocacy function, to submit annually to the legislature and the Governor an analysis of any budget request affecting those individuals, including recommended funding levels.

Your Committee finds that "individuals with developmental disabilities" is the proper terminology and that these individuals should be deinstitutionalized if possible.

Your Committee has amended this bill to add a new section providing that the Department of Health shall not interfere with certain activities of the Council. Your Committee believes that the Council should remain as independent as possible to effectively fulfill its mission and purpose. Your Committee amended this bill further by replacing the term "citizens" with "residents of Hawaii" to ensure that resident aliens would not be excluded.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2549, H.D. 2, as amended herein, and recommends that

it pass Second Reading in the form attached hereto as H.B. No. 2549, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kanno).

SCRep. 2325 Health on H.B. No. 2897

The purpose of this bill is to provide for certification of dental health for school aged children entering public and private schools in this State.

This bill would require parents or guardians of children entering school for the first time to present proof of a dental examination by a licensed dentist, who would issue a certificate to that effect. Children without a certificate will not for that reason be excluded from attending school.

Supporting testimony from the Department of Health indicates that our children suffer from rates of tooth decay as high as three times the national average and that thirty-six per cent of kindergarten children have active, untreated tooth decay. The intent of this bill is to provide for early detection and treatment of tooth decay and other dental problems in children to alleviate this problem. The National Oral Health Objective is that at least ninety per cent of all children entering school for the first time shall have had all dental care and dental disease prevention services provided.

Your Committee has amended this bill as follows:

- (1) Changing the time in which to obtain the dental examination from one year to a reasonable period of time;
- (2) Clarifying that a child shall not be prevented from attending school for failure to present the required certification;
- (3) Adding a provision to conform this bill with a possible enactment this session of an education recodification bill; and
- (4) Making technical amendments.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2897, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2897, H.D. 2, S.D. 1, and be referred to the Committee on Education.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kanno).

SCRep. 2326 Health on H.B. No. 3493

The purpose of this bill is to create the newborn metabolic screening special fund.

Present law requires that institutions caring for newborn infants ensure that every infant be tested for certain specified genetic defects and other diseases as may be specified by the Department of Health. This testing is necessary for early detection of diseases which could be fatal or cause severe mental and physical handicaps, but are treatable with early detection and treatment.

Creation of a special fund is intended to allow a self-sustaining means of financing for this necessary and required testing of newborns.

This bill also requires the Department of Health to convene a panel to develop a plan for providing newborn metabolic services to the community.

Your Committee has amended this bill to delete "laboratory testing" as a use of the funds in the special fund; to reduce the fee for newborn screening kits to \$4; to move proposed subsection (g) into a separate section to be added to the Session Laws; to delete the prohibition against the adoption of rules by the Department of Health prior to completion of the implementation plan; and to make technical, nonsubstantive amendments for clarity and style.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 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 the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kanno).

SCRep. 2327 Consumer Protection on H.B. No. 2857

The purpose of this bill is to clarify and to increase the monetary penalty for an action by the payee against the maker to recover money for dishonored checks.

This bill would:

- (1) Allow the payee or a holder in due course to assess a reasonable service charge of \$20 at any time prior to a judicial hearing;
- (2) Allow the payee or a holder in due course to recover additional charges upon the date of the hearing;
- (3) Allow the maker to tender to the payee or a holder in due course the service charge and attorneys fees in addition to the amount of the check in satisfaction of the claim subsequent to the commencement of the action but prior to the hearing; and
- (4) Require that the judgment against the maker include the amount of the service charge and attorneys fees in addition to the amount of the check.

Your Committee finds that the incidents of dishonored checks are increasing to the point where more protection is needed for those accepting checks, such as merchants. This bill would help them recover their costs in pursuing people who write bad checks.

Your Committee has amended this bill on recommendation of the Hawaii Commission to Promulgate Uniform Legislation to include the provisions of the bill in another statutory section to preserve the integrity of uniformity of the Uniform Commercial Code. In so doing the service charge has been reduced to \$10, the requirement for signs notifying of the service charge has been deleted, and the effective date has been set as July 1, 1920, in order to continue discussion of this bill.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2857, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2857, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Aki, Anderson).

SCRep. 2328 Consumer Protection on H.B. No. 3102

The purpose of this bill is to provide a presumption that an owner or lessee has violated the exemption provisions of the contractor licensing law if that person obtains an exemption more than once in two years and to provide a penalty for that violation.

The contractor licensing law is intended to protect the public from substandard construction and shoddy artisanship by ensuring that only competent professional trades persons who are licensed be permitted to do the work. However, an exception to the licensing requirement is made for owners and lessees who do construction work on their own property for their own use or for use by specified family members and not for use of the general public. Your Committee finds that this exception is being illegally used by unlicensed contractors who attempt to circumvent the licensing requirement by taking advantage of this exemption. This bill would restrict the claiming of this exemption to once in a two-year period.

This bill also provides for specific monetary fines ranging from \$5,000 or forty per cent of the appraised value for the first offense to \$10,000 or fifty per cent of the appraised value for subsequent offenses.

The Department of Commerce and Consumer Affairs (DCCA) submitted testimony in support of this bill. On recommendation of the DCCA, your Committee has amended this bill as follows:

- (1) By adding three new statutory sections that establish procedures for criminal prosecution, and penalties for unlicensed contracting to do repair for damages caused by a natural disaster or work involving the elderly (those over 65);
- (2) By adding a provision requiring that an applicant for a licensed exemption be provided with a printed disclosure statement explaining the law and the penalties; and
- (3) By making technical, nonsubstantive amendments.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee 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 the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Aki, Anderson).

SCRep. 2329 Consumer Protection on H.B. No. 3399

The purpose of this bill is to change certain fees for the filing and processing of various documents under the Hawaii Business Corporation Act (chapter 415, Hawaii Revised Statutes), Hawaii Nonprofit Corporation Act (chapter 415B, Hawaii Revised Statutes), Partnerships law (chapter 425, Hawaii Revised Statutes), and the Uniform Limited Partnership Act (chapter 425D, Hawaii Revised Statutes). This bill also adds notice and fee requirements applicable to securities issued by an investment company that are exempt from registration under the Uniform Securities Act.

Your Committee finds that the fees established in law have not been raised since 1985 and are substantially lower than those charged throughout the other states. Your Committee further finds that increasing the fees will provide additional

revenues which the Department of Commerce and Consumer Affairs will use to modernize its recordkeeping functions through computerization and enhance its enforcement functions.

Your Committee has amended this bill by:

- (1) Replacing the \$1 amounts with specific fees; and
- (2) Making nonsubstantive technical changes for the purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3399, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3399, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Aki, Anderson).

SCRep. 2330 Consumer Protection on H.B. No. 3412

The purpose of this bill is to repeal unnecessary statutory language indicating that the director of the office of consumer protection is not precluded from filing actions against any motor vehicle repair dealer, mechanic, or apprentice for violations of the law.

Your Committee finds that the director of the office of consumer protection is empowered to file actions on behalf of the public when alleged violations are reported against a business operating in Hawaii. Your Committee further finds that this authority is intended to be inclusive rather than exclusive of any particular industry and, therefore, a change in statute is needed to clarify this authority.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3412 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Aki, Anderson).

SCRep. 2331 Consumer Protection on H.B. No. 3416

The purpose of this bill is to delete the repeal date on Act 253, Session Laws of Hawaii 1993, which gives the regulated industries complaints office (RICO) administrative citation powers to cite ongoing unlicensed activities in regulated professions and occupations.

Your Committee finds that pursuant to Act 253, the RICO program has been able to more effectively respond to ongoing unlicensed activity in many regulated professions and occupations by issuance of an order of abatement and applicable fines. Your Committee further finds that this administrative citation process allows RICO to respond more expeditiously to ongoing unlicensed activity that has greater potential of causing consumer harm.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3416 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Aki, Anderson).

SCRep. 2332 Consumer Protection on H.B. No. 3423

The purpose of this bill is to authorize the Director of Commerce and Consumer Affairs to establish a trust fund for administering fees and costs associated with the state certified arbitration program.

Your Committee finds that allowing the Director to establish a trust fund into which may be deposited fees and costs derived from the benefactors of the program will provide a more efficient means for the administration of program revenues and expenses.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3423, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Aki, Anderson).

SCRep. 2333 Consumer Protection on H.B. No. 3424

The purpose of this bill is to clarify the priority of distribution of claims from an insolvent insurer's estate under article 15 of the insurance code, relating to insurers supervision, rehabilitation, and liquidation.

The amendments proposed by this administration bill would conform the insurance code to a recent ruling by the United States Supreme Court in Department of the Treasury v. Fabe, which establishes the priority of distribution of

assets of an insolvent insurer. This bill maintains the general order of priorities in the code, but claims of the federal government have been moved above general creditors. Debts to employees have been moved below federal claims. Language has been added from model law, clarifying the types of claims excluded from Class 2 policyholder status.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3424, H.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Aki, Anderson).

SCRep. 2334 Consumer Protection on H.B. No. 3711

The purpose of this bill is to allow nonresident insurance agents and brokers to place insurance through a licensed general agent in this State for subjects of insurance located in this State, regardless of whether the insured is domiciled within or outside this State or whether the insured is a foreign corporation under this State's corporation laws.

Under present law, an out-of-state insurance agent or broker cannot place insurance with a Hawaii licensed insurance general agency for risks located in Hawaii unless the insured is located outside Hawaii. This bill would remove that limitation and open up Hawaii's insurance market to nonresident agents and brokers, as long as the subject of the insurance (the risk) is located in Hawaii and the policy is placed through a Hawaii licensed general agent and the commission paid is the same as would be paid to a resident insurance solicitor.

Upon consideration, your Committee has amended this bill:

- (1) To delete the amendment to section 431:9-221, Hawaii Revised Statutes;
- (2) To add a new insurance tax credit which expands the current credit to include salaries of insurance company employees located or based in this State and by repealing the current tax credit for an insurer to facilitate regulatory oversight;
- (3) To increase the tax rate on life insurance premiums from 2.75 percent to 3.197 percent; and
- (4) To provide for an effective date of the tax provisions of July 1, 1996, with the appropriate conforming provisions to ensure an orderly transition.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3711, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3711, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Aki, Anderson).

SCRep. 2335 Consumer Protection on H.B. No. 4145

The purpose of this bill is to provide further support for the Hawaii Hurricane Relief Fund (HHRF) by authorizing the use of special purpose revenue bonds of up to \$500,000,000 to finance the HHRF.

Your Committee has amended the bill by deleting its substance and inserting therefor, provisions that clarify the use of revenue bonds to finance the Hawaii Hurricane Relief Fund (HHRF) and to provide that pledges and assignments by the fund shall constitute a lien and security on moneys received by the fund.

Although your Committee agrees that currently, the private insurance market is insufficient to provide for the needs of the citizens of Hawaii and that it is imperative that the HHRF receive sufficient financial support to fulfill its legislatively mandated purpose, it also recognizes that special purpose revenue bonds are to be issued solely for the purposes of financially assisting specific private activities or industries under the State Constitution. Your Committee does not believe as a matter of policy, that special purpose revenue bonds should be issued for purposes such as the HHRF in that the financing of the HHRF does not benefit a specific private activity or industry, but instead protects the property of the community-at-large. By clarifying the HHRF's ability to include state revenue bonds as a source of financing, bond proceeds could allow the HHRF to reduce its reinsurance costs and thereby build its reserves or retire existing debt.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4145, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 4145, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Aki, Anderson).

SCRep. 2336 Consumer Protection on H.B. No. 3407

The purpose of this bill is to provide a uniform penalty against the perpetrators of certain unfair or deceptive trade practices in commerce.

Your Committee finds that this measure is necessary to eliminate flaws in the penalty provisions of various consumer protection statutes, and will reduce duplicative or unnecessary compounding of penalties or criminal sanctions.

Your Committee has amended this bill by deleting the changes made in House Draft No. 1 to section 481B-6(a), Hawaii Revised Statutes, dealing with the sale of solar energy devices. Your Committee believes that the substitution of the word "may" for the word "shall" in subsection (a) may erroneously mislead the public into believing that compliance with the disclosure requirements relating to the sale of solar energy devices is not mandatory.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3407, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3407, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Aki, Anderson).

SCRep. 2337 (Joint) Consumer Protection and Judiciary on H.B. No. 3648

The purpose of this bill is to increase the drivers education fund underwriter's fee to \$2 a year, and to make payments due on a quarterly basis instead of payable in full on an annual basis.

Your Committees find that over the last few years a significant reduction in revenues has caused the Driver Education program to downsize. Restoring the underwriter's fee to its previous level of \$2 will increase the program's bottom line, and the change from annual to quarterly payments will provide the program with revenue on a more consistent basis.

Your Committees received testimony in support of the bill from the Judiciary, State of Hawaii, HGEA/AFSCME, the Hawaii Association of Safety Traffic Educators, the Department of Education, and the Mothers Against Drunk Driving.

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3648, H.D. 2, and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.
Ayes, 7. Noes, none. Excused, 6 (Aki, Chumbley, Ige, Levin, Matsunaga, Matsuura).

SCRep. 2338 (Joint) Consumer Protection and Judiciary on H.B. No. 4142

The purpose of this bill is to propose an amendment to the State Constitution to authorize the Director of Finance to issue revenue bonds to finance the Hawaii Hurricane Relief Fund (HHRF).

Your Committees find that Act 339, Session Laws of Hawaii 1993, created the HHRF and included revenue bonds as a possible means of financing for the fund. Your Committees further find that in order for the State to issue revenue bonds, amendments need to be made to the State Constitution to include this particular undertaking as a legitimate use of revenue bonds.

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

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 4142, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 4142, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.
Ayes, 7. Noes, none. Excused, 6 (Aki, Chumbley, Ige, Levin, Matsunaga, Matsuura).

SCRep. 2339 Transportation and Government Affairs on H.B. No. 1531

The purpose of this bill is to require that the county and Hawaii Housing Authority (HHA) notify the county police of a derelict (abandoned) vehicle before causing the vehicle to be removed only if the vehicle is reported stolen or is needed for police investigation.

Under present law, the counties and HHA in the case of vehicles abandoned on property owned, managed, or operated by the Office of Hawaiian Affairs may cause any derelict vehicles to be taken into custody and disposed of only upon first notifying the police. This bill restricts notifying police of those derelict vehicles reported stolen or otherwise needed for police investigation.

The counties and HHA have access to the same computerized vehicle files as do the police departments and can verify a vehicle's status.

If the vehicle is flagged in the computer file as a "WANTED VEHICLE," police take the appropriate action. If there is no flag, the vehicle may be towed by the county or HHA. This bill would streamline and expedite the process of getting derelict vehicles off the street and avoid an eyesore and safety hazard to children.

Your Committee received supporting testimony from the HHA, the Honolulu Police Department, and the Department of Finance of the City and County of Honolulu.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1531 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Solomon, Tanaka).

SCRep. 2340 Transportation and Government Affairs on H.B. No. 2411

The purpose of the bill is to prohibit a liquor licensee from not only selling, but also serving or allowing the consumption or possession of liquor to persons such as minors and those under the influence.

Current law only prohibits a liquor licensee from selling liquor to these persons. There is a need to also prohibit the consumption or possession of liquor by those persons to whom liquor cannot be sold.

The City and County of Honolulu, the Departments of Liquor Control for the Counties of Kauai, Maui, and Hawaii, Legislative Information Services of Hawaii, and Mothers Against Drunk Driving submitted testimony in support of the bill.

Your Committee has amended the bill to add a provision to make liquor licensees, who sell or furnish liquor to a minor, liable to the minor for any injuries, or for the death of the minor to whom the liquor was sold or furnished. The bill also makes clear the legislative intent that law be interpreted to abrogate the holding in Winters v. Silver Fox Bar, et al., 71 Haw. 524 (1990) in favor of finding that a court could find the serving of liquor is the proximate cause of injuries or death to a person consuming the liquor.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2411, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2411, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Anderson).

SCRep. 2341 Transportation and Government Affairs on H.B. No. 3339

The purpose of this bill is to establish a revolving fund to be known as the public works project assessment fund:

- (1) To help defray the costs in carrying out construction projects managed by the Department of Accounting and General Services (DAGS);
- (2) To manage funds representing accumulated sick and vacation leave credits and retirement benefits for non-general fund employees;
- (3) To collect and distribute other expenses associated with capital improvement, repairs, and maintenance; and
- (4) To manage payment of employee transportation requirements.

The bill further provides that the Comptroller shall make reasonable assessments on the projects managed by DAGS which shall be deposited into the revolving fund.

Favorable testimony by DAGS in support of the bill noted that current program operating funds do not cover costs for specific public works projects and benefits for non-general fund employees. These types of costs are presently provided through three revolving funds currently under DAGS control. The bill would combine these three accounts into the Public Works Project Assessment Fund. By establishing this revolving fund and authorizing the Comptroller to assess projects and distribute funds, DAGS would be able to carry out its program of centralized engineering services. DAGS supports this administration bill since it provides a means to equitably charge projects for costs incurred by each project and to pool resources for non-recurring costs incurred in carrying out the construction program. The Legislative Auditor analyzed the proposed fund and informed your Committee that capital improvement projects would benefit from DAGS' services and the proposed fund would be self-sustaining.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3339 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Solomon, Tanaka).

SCRep. 2342 Transportation and Government Affairs on H.B. No. 3340

The purpose of this bill is to require that the Comptroller preaudit all executive branch proposed payments of \$10,000 or more to determine the propriety of the proposed expenditure and compliance with executive orders and rules. The preaudit of payments under \$10,000 is left to the discretion of the Comptroller.

Testimony in support of the bill was received from the Department of Accounting and General Services (DAGS), the Department of Human Services (DHS), the Department of Health (DOH), and the Department of Public Safety (PSD).

DAGS and DHS further testified in support of amending section 40-51, Hawaii Revised Statutes (HRS), to give the Comptroller the power to authorize payments directly from the treasury by means of electronic funds transfer instead of by warrant to allow DHS to implement an electronic benefits transfer system. DAGS, DOH, and PSD testified in support of amending section 78-12, HRS, to give the Comptroller the power to determine the amount of any salary or wage overpayment, and after hearing or if the hearing is waived, the power to deduct the overpayment from the employee's wages. DAGS also desired to amend section 40-4, HRS, to eliminate the requirement that they publish in a paper of general circulation their annual statement of the State's income and expenditures by funds so as to save a minimum \$2,800 a year. While your Committee finds these various suggestions of interest, it is too late in session to address these concerns, which should have been addressed when this administration bill was submitted.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3340, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Solomon, Tanaka).

SCRep. 2343 Transportation and Government Affairs on H.B. No. 3369

The purpose of this bill is to amend the definition of "professional services" under chapter 103D, Hawaii Revised Statutes, the Public Procurement Code, to include "public finance bond underwriting and public finance bond investment banking".

This is an administration bill which received supporting testimony from the Department of Accounting and General Services (DAGS) and the Department of Budget and Finance. The bill would streamline the procurement process for the issuance of bonds. It would allow the establishment of a list of qualified firms that could be selected to serve as underwriters. Currently, underwriters are selected through a request for proposal process. DAGS suggested that the definition be made more specific to the bonding industry.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3369, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Solomon, Tanaka).

SCRep. 2344 Transportation and Government Affairs on H.B. No. 3383

The purpose of this bill is to authorize the issuance of general obligation bonds and make an appropriation for the reimbursement of the airport revenue fund for funds used in purchasing two parcels of land in Kapolei.

This administration bill would authorize the issuance of \$64,400,000 in general obligation bonds. This is the amount which the State used from the airport revenue fund to purchase the Hawaii Raceway Park and the Hawaii Meat Company Feedlot, for which the federal government has ruled that the State must reimburse the fund and the State has agreed to do so.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3383 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Solomon, Anderson).

SCRep. 2345 Transportation and Government Affairs on H.B. No. 3533

The purpose of this bill is to provide that evidence of ownership affixed to a vessel creates a presumption that an illegally moored vessel was moored by the owner of the vessel. A vessel owner may present evidence to show that the vessel was sold, transferred, or stolen, or was moored illegally in accordance with a previous written agreement with the State.

Your Committee received testimony in support of this bill from the Department of Land and Natural Resources. Your Committee also received favorable testimony from the Marimed Foundation, a nonprofit tax exempt charitable organization, which operates the sailing school vessel "Tole Mour" for special needs Hawaii youths. Your Committee learned that sailing school vessels are regulated under section 2102 of Title 46, United States Code, the Sailing School Vessels Act, which requires, among other things, that such vessels not engage in commercial activity, that they be owned and operated by tax exempt organizations, and that the instructional program must be approved by the Coast Guard. Marimed's testimony indicated the need for, among other things, a waiver of mooring charges to assist sailing school vessels such as the "Tole Mour".

Your Committee has amended the bill to require the Department of Land and Natural Resources to adopt rules for the operation and regulation of sailing school vessels, to define "sailing school vessels", and to provide a waiver of mooring charges for sailing school vessels.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3533, H.D. 2, as

amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3533, H.D. 2, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chairman on behalf of the Committee.

Ayes, 3. Noes, none. Excused, 2 (Solomon, Anderson).

SCRep. 2346 Transportation and Government Affairs on H.B. No. 3580

The purpose of this bill is to provide that, with the exception of violations occurring in an operational area of an airport, parking and equipment violations at a public airport shall be treated as traffic violations under chapter 291D, Hawaii Revised Statutes. Violations occurring in the operational area of an airport remain offenses under the Penal Code subject to a maximum fine of \$500.

The Department of Transportation and the Administrative Director of the Courts submitted testimony in favor of the bill. Your Committee was informed that currently airport parking and equipment violations are treated as criminal offenses and cannot be handled in the civil traffic system, which would ordinarily be the case were the violation to occur elsewhere than at the airport. The bill decriminalizes such violations except when they occur in an airport operational area. Violations occurring there remain criminal offenses due to the greater safety hazard they pose to airport operations.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3580, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chairman on behalf of the Committee.

Ayes, 3. Noes, none. Excused, 2 (Solomon, Tanaka).

SCRep. 2347 (Joint) Transportation and Government Affairs and Judiciary on H.B. No. 3556

The purpose of this bill is to require that contractors obtain a tax clearance as a prerequisite to entering into a public contract.

This administration bill provides the following with respect to contracts worth \$10,000 or more:

- (1) The contractor shall obtain a state and federal tax clearance as a prerequisite to entering into state or county contracts;
- (2) The state or county contracting officer shall withhold payment in the final settlement of a contract until the receipt of tax clearances, and, if no tax clearance is received within six months, then the final payment shall be assigned to the appropriate taxing authority to pay any outstanding taxes dues;
- (3) An assignee of a contract, as a condition precedent to the assignment, shall first obtain a bulk sales certificate if required by law; and
- (4) State and county contracting officers are subject to a misdemeanor criminal sanction for intentional violations of this bill.

The State Department of Taxation, the Internal Revenue Service, and the Chamber of the Commerce of Hawaii submitted supporting testimony indicating that this bill would enhance tax compliance.

Your Committees find that the State's dismal fiscal condition necessitates that tax collections be maximized. This bill would facilitate achievement of that goal. Your Committees further find that contractors who obtain public contracts should rightfully pay their share of taxes since they benefit directly from obtaining public contracts.

Your Committees have amended this bill to provide:

- (1) That if the contractor fails to timely file any tax return or pay any tax due during the term of the contract, then the progress payments shall be assigned to the appropriate tax authority;
- (2) That this bill does not apply to emergency purchases under section 103D-307, Hawaii Revised Statutes, or to contractors who are paying their delinquent taxes in agreed upon installments; and
- (3) That the sum of \$128,168 is to be appropriated from general revenues to carry out the purposes of this bill.

As affirmed by the records of votes of the members of your Committees on Transportation and Government Affairs and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3556, H.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3556, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.

Ayes, 10. Noes, none. Excused, 1 (Solomon).

SCRep. 2348 Transportation and Government Affairs on H.B. No. 3789

The purpose of this bill is to provide a definition of "soil enhancement products" under Section 103D-1001, Hawaii Revised Statutes (HRS), and to authorize the Procurement Policy Office to include any such product defined in Section 103D-1001, on the Hawaii Product List.

Hawaiian Earth Products, the Hawaii Island Landscape Association, the Hawaii Farm Bureau, and the Big Island Farm Bureau submitted favorable testimony. All stated that the bill would support mulching efforts statewide, and would reduce the stream of green waste that now takes up landfill space. The Department of Accounting and General Services submitted testimony expressing concern that the Hawaii products preference law was not intended to qualify any particular product or broad category of products. Instead the law provides a procedure for each vendor to qualify their product as meeting the needs of state agencies.

Your Committee has amended the bill by deleting its provisions and replacing them with the provisions of S.B. No. 2524, S.D. 1, which require the Administrator to include in the Hawaii products list the names of those producers and manufacturers of soil enhancement products who have applied and been approved for a Hawaii products preference, and define soil enhancement products.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3789, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3789, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.

Ayes, 3. Noes, none. Excused, 2 (Solomon, Tanaka).

SCRep. 2349 (Joint) Transportation and Government Affairs and Ecology and Environmental Protection on H.B. No. 3577

The purpose of this bill is to add to the authority of the State Department of Transportation (DOT) to regulate the transportation of hazardous materials and hazardous waste, by adding infectious substances, and medical waste and providing for regulatory matters concerning them.

This bill would also:

- (1) Prohibit any person from transporting these materials and substances without compliance with applicable rules of the DOT;
- (2) Prohibit any person from dumping these materials and substances upon a public highway, street, or immediate property without taking immediate action to stop their spread or to remove them;
- (3) Require that any shipment of these materials and substances be subject to inspection by the DOT;
- (4) Require the reporting of any incident of leak, spill, escape, and the like of these materials and substances; and
- (5) Change "etiologic agent" to "infectious substance" in compliance with federal standards.

Your Committees deem hazardous materials, hazardous waste, infectious substances, and medical waste to be of a sufficient public health hazard to warrant their strict scrutiny while in transit to protect against an accident which could cause widespread detrimental and possibly lethal consequences.

Your Committee finds that the transportation of explosives is regulated by different governmental agencies at different levels of government. For example, the Coast Guard, the Federal Aviation Administration, the county police departments and fire departments, and the Department of Labor and Industrial Relations are all involved to a degree with the transportation and regulation of explosives. DOT lacks the expertise and resources to solely regulate the transportation of explosives, and the best use of DOT's resources is for DOT to continue its efforts to ensure public safety through its inspections at weigh stations and through random roadside inspections of commercial vehicles.

Your Committees have amended this bill by deleting its provisions and substituting the provisions of S.B. No. 2894, S.D. 1, and by making technical, nonsubstantive amendments for purposes of clarity.

As affirmed by the records of votes of the members of your Committees on Transportation and Government Affairs and Ecology and Environmental Protection that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3577, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3577, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.

Ayes, 6. Noes, none. Excused, 4 (Aki, Chumbley, Solomon, Anderson).

SCRep. 2350 Judiciary on H.B. No. 2416

The purpose of this bill is to require the Hawaii Civil Rights Commission (Commission) to obtain a court order prior to gaining access to residential premises in which home-based businesses are operated, when voluntary access for an investigation or inspection is denied.

Your Committee finds that a balancing of the privacy interests of home-based business owners and the Commission's need to investigate civil rights violations favors requiring the Commission to obtain a search warrant.

Your Committee believes that this requirement is not unduly burdensome and will protect the privacy rights of small businesses which are operated from residences.

Testimony in support of this bill was received from the Commission, the Chamber of Commerce, and two home-based business owners.

Upon further consideration, your Committee amended the bill to allow the Commission to recover attorney's fees and court costs against a party who is found to have committed a discriminatory practice.

Your Committee believes that this amendment is appropriate, as it places the Commission on equal footing with a private attorney hired by a complainant who is able to recover attorney's fees and costs.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2416, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2416, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 7. Noes, none. Excused, none.

SCRep. 2351 (Joint) Judiciary and Health on H.B. No. 2526

The purpose of this bill is to include the prevention of domestic and sexual violence and the protection and treatment of victims of domestic and sexual violence as responsibilities of the Department of Health.

Your Committees find that women in Hawaii are increasingly at risk of becoming victims of domestic and sexual violence, creating a serious public health problem. There is an urgent need to strengthen the State's commitment to the provision of services and programs designed for the protection of women who are the victims of domestic and sexual violence and their children, and to treat the perpetrators of such violence.

Your Committees further find that research has shown that the public health approach is effective in reducing violence against women. This approach requires a multidisciplinary collaboration with human services, justice, and law enforcement. Currently, the Department of Human Services and the Department of Health are working in cooperation and in partnership with private agencies to address domestic and sexual violence in the State. Your Committees find that this problem is so pervasive and complex as to require commitment by these two departments. These departments have already established a high level of expertise in this area, have demonstrated a strong commitment to make domestic violence prevention and treatment a high priority, and will be better able to coordinate effective programs with service providers.

Upon further consideration, your Committees have amended this bill by:

- (1) Adding a new section to require the Department of Human Services to establish and administer programs for the prevention of domestic and sexual violence and the protection and treatment of such victims, as similarly required of the Department of Health;
- (2) Moving the new material concerning the Department of Health's duties in section 321-1, Hawaii Revised Statutes, from subsection (e) to subsection (h);
- (3) Adding a new section that establishes an ad hoc committee on domestic and sexual violence, requires the Chief Justice to continue existing programs for the prevention of domestic and sexual violence and the protection and treatment of such victims and to consult with the ad hoc committee in developing a transition plan for the continuation of the judiciary's programs under the auspices of the executive branch, and requires a report to the Legislature prior to the 1997 Regular Session; and
- (4) Renumbering the sections consecutively.

As affirmed by the record of votes of the members of your Committees on Judiciary and Health that is attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2526, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2526, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.
Ayes, 7. Noes, none. Excused, 4 (Chumbley, Kanno, Matsunaga, Matsuura).

SCRep. 2352 Judiciary on H.B. No. 2636

The purpose of this bill is to establish an electronic prescription accountability system to monitor the prescribing and dispensing of certain controlled substances.

The system is designed in an efficient and cost-effective manner that will not impede the appropriate and necessary prescribing of medication and that will ensure the confidentiality of sensitive medical information.

Your Committee finds that the Drug Enforcement Administration estimates that controlled prescription drug diversion constitutes a \$25,000,000,000 annual market. The diversion of controlled drugs can occur in a number of ways, including:

- Illegal acquisition of prescriptions by individuals from multiple physicians under the pretense of legitimate medical need;

- Indiscriminate, inappropriate, or careless prescribing by physicians or dispensing by pharmacists;
- Prescription forgery;
- Illegal sales by physicians or pharmacists; and
- Drug theft from physicians and pharmacies.

Schedule II drugs that are legally available to the public for legitimate medical purposes, such as morphine, amphetamines, percodan, and secobarbital, have a high potential for abuse and addiction because of their psychological or physical effects on the user.

Since 1992, state law enforcement has concentrated its efforts on detecting drug diversion at the retail level through a voluntary prescription drug monitoring program known as HISTEM (Hawaii Schedule Two Electronic Monitoring), which tracks the prescribing, dispensing, and purchasing of certain controlled substances. HISTEM allows the Narcotics Enforcement Division to monitor the prescribing practices of all physicians statewide and to monitor targeted pharmacies, physicians, and geographic areas for regulatory compliance. The program currently monitors four thousand six hundred physicians and information from one hundred ten thousand schedule II prescriptions filled annually in the State. Over eighty per cent of all individuals identified through HISTEM are "multi doctor" patients who knowingly obtain controlled substance prescriptions from several physicians for supporting their own habit or to sell to others.

The impact of HISTEM on the enforcement of the controlled substance law is considerable. The HISTEM program enables Narcotics Enforcement Division investigators to confront physicians or patients at the outset of their illegal or substance abuse behavior, thus deterring many of these physicians and patients from such activity. Since its inception, the HISTEM program has initiated over five hundred felony drug cases. During this past year, the Narcotics Enforcement Division has experienced a steady increase in the number of investigative cases involving the diversion of pharmaceutical controlled substances, particularly among medical professionals and hard core drug users. Of the eight hundred twenty-five controlled substances cases investigated by the Narcotics Enforcement Division, three hundred eighty-two were initiated by the HISTEM program, representing an increase of forty-four per cent from the previous year. Part of the success of the HISTEM program can be attributed to the fact that ninety-seven per cent of all pharmacies doing business in the State are voluntarily participating in the program.

Your Committee notes that the HISTEM program recently was selected by the United States Department of Justice as one of the top programs in the country. Moreover, the Model Prescription Accountability Act, proposed by the President's Commission on Model State Drug Laws, is essentially the HISTEM program. Your Committee also finds that similar prescription monitoring programs implemented in ten other states have proven effective in reducing the diversion of controlled substances covered by the monitoring programs.

Your Committee further finds that this bill will allow the State's Narcotics Enforcement Division to continue its electronic prescription monitoring program, which has proven its ability to effectively detect persons attempting to divert certain prescribed controlled substances for illegal use.

Your Committee has amended the disclosure provision at section 329-D(c) that would have permitted the Administrator of the Narcotics Enforcement Division to disclose confidential information to any investigating agency making the request. Your Committee believes this power is too broad and has amended the bill to permit disclosure only if the Administrator has reasonable grounds to believe the disclosure is in furtherance of an ongoing investigation. Your Committee considers this language sufficient to assist any investigating agency with ongoing investigations and also protect an individual's right to privacy.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2636, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2636, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (McCartney).

SCRep. 2353 Judiciary on H.B. No. 2726

The purpose of this bill is to allow the legislative auditor to maintain the confidentiality of its working papers; to prohibit the auditor and the auditor's staff from being summoned to testify as a witness, except as the State's witness; to impose requirements on the measures submitted for the auditor's review; and to allow the auditor to hire attorneys.

Testimony in support of this bill was received from the auditor. Your Committee also received testimony from Common Cause Hawaii and the Society of Professional Journalists.

Your Committee finds that the auditor performs a necessary and important state function, such that its working papers should be protected from disclosure during the pendency of its audits and investigations.

Your Committee further finds that the auditor's ability to fulfill its function and to discharge its statutory duties may be jeopardized, where its working papers are subject to discovery prior to the release of the final report.

Given the availability of the working papers for public review following the release of the report, your Committee believes that the auditor's working papers pertaining to audits and investigations should not be subject to review and inspection prior to the release of the report.

Upon further consideration, your Committee amended the bill to:

- (1) Substitute language in the confidentiality provision to protect the auditor's working papers from disclosure;
- (2) Define "working papers" to mean the notes, internal memoranda, and records of work performed by the auditor on audits and other investigations undertaken pursuant to statute, including any and all project evidence collected and developed by the auditor; and
- (3) Delete the immunity provision which prohibited the auditor and the auditor's staff from being summoned to testify in any judicial or administrative proceeding concerning any audit or investigation, other than to testify as a witness on the State's behalf.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2726, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2726, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 7. Noes, none. Excused, none.

SCRep. 2354 Judiciary on H.B. No. 2729

The purpose of this bill is to make the Hawaii Omnibus Criminal Forfeiture Act permanent, and fairer to persons claiming an interest in the property subject to forfeiture.

Specifically, this bill:

- (1) Requires the State to prove that a forfeiture is not grossly disproportionate, and specifies the criteria that the court may use in making this determination;
- (2) Requires the State to initially prove by a preponderance of the evidence that a defendant's property is subject to forfeiture;
- (3) Requires the foregoing defendant to subsequently prove by a preponderance of the evidence that the defendant's property is not subject to forfeiture;
- (4) Allows both the defendant and the State to present evidence and witnesses, and to cross-examine the witnesses, in a forfeiture proceeding; and
- (5) Requires twenty per cent of the moneys in the criminal forfeiture revolving fund to be expended for drug abuse education, prevention, and rehabilitation programs.

Your Committee received comments on this bill from the Attorney General, the Public Defender, the Prosecuting Attorney of the City and County of Honolulu, and the Law Enforcement Coalition (a group comprised of the Attorney General, and the prosecuting attorneys and chiefs of police of the several counties).

Your Committee finds that forfeitures serve a public purpose of removing assets, from certain members of the public, that either facilitate or are derived from illegal activity. These forfeited assets or the proceeds therefrom are used to administer the forfeiture program, train and educate law enforcement personnel, and provide supplemental payments to state and county agencies for law enforcement purposes. Such use of these assets or proceeds is for a public purpose and benefit.

Your Committee also finds that forfeiture provides an immediate deterrent from future illegal activity involving those assets forfeited or precludes any further enjoyment of forfeited assets derived from illegal activity. In addition, although the deterrent impact cannot be measured in crime statistics, a decline in the criminal forfeiture (revolving) fund's balance suggests that criminals may be getting the forfeiture message and can be taken as an indication of effective deterrence. Moreover, in view of shrinking financial resources and prison overcrowding, your Committee strongly believes that every lawful weapon in the war on crime that does not entail additional expenditure of public moneys or incarceration of additional inmates should and must be used to the fullest extent possible.

Finally, your Committee finds that the Department of the Attorney General is implementing the forfeiture law appropriately, carefully, efficiently, and effectively; that the law is resistant to abuse; and that law enforcement agencies are not abusing the law.

Your Committee has amended this bill by:

- (1) Deleting the purpose section to eliminate possible inconsistencies with the substantive provisions of this bill;
- (2) Requiring a defendant to prove that a forfeiture is grossly disproportionate, rather than requiring the State to prove that a forfeiture is not grossly disproportionate;
- (3) Deleting the provision requiring twenty per cent of the moneys in the criminal forfeiture revolving fund to be expended for drug abuse education, prevention, and rehabilitation programs; and
- (4) Making technical, nonsubstantive changes for purposes of style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2729, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2729, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 7. Noes, none. Excused, none.

SCRep. 2355 Judiciary on H.B. No. 3095

The purpose of this bill is to appropriate funds for various correctional facilities.

Specifically, this bill provides funding for the planning, design, and construction of a medium and high security correctional facility; providing a tent-like prison facility for minimum security inmates; refurbishing of the former Women's Community Correctional Facility; expansion of the Hawaii Youth Correctional Facility; the planning and construction of a "boot-camp" facility for minimum security inmates; and construction of a one thousand-bed prison facility in the county of Hawaii.

Your Committee agrees with the intent of this bill, which is to appropriate funds for additional prison space, in order to reduce prison overcrowding. Your Committee finds that the correctional system in Hawaii continues to lack the resources necessary to reduce chronic overcrowding, which led to a class action suit on behalf of prisoners in 1984. Since the suit was settled through a consent decree in 1985, considerable advancements have been made in correctional practices and policies. Despite success in areas such as medical, mental health, environmental, and correctional programming, the State continues to be under the auspices of federal court oversight due to a single factor--an inmate population that exceeds the number of beds available in the system. Overcrowding is the primary reason that the State continues to remain under the terms of the consent decree, and also negatively influences admission and release decisions.

Overcrowding also allows criminal offenders to avoid incarceration through premature releases and reduced sentences. This problem threatens public safety by allowing violent offenders to be released too early back on the streets. Unlike parole and probation, incarceration makes it impossible for offenders to victimize the public with new crimes for the duration that they are locked up. In 1995, forty-seven offenders on probation were charged with new felony crimes in Honolulu. About half, or twenty-three, committed these felonies within six months of being placed on probation. An additional twenty-three cases involving felony crimes by probationers in 1995 are still under review. Of these cases, ten occurred within six months after the suspect was put on probation.

In addition, overcrowding has controlled public policy decisions of the Department of Public Safety and the Legislature because the fundamental need for additional prison bed-space has not been addressed. Department of Public Safety officials openly admit that the lack of prison space is dictating their policy decisions even in defiance of the courts. Furlough is one example. Criminals sentenced for misdemeanor crimes have been released on furlough as soon as they report for incarceration. Two months ago, the warden of Oahu Community Correctional Center publicly acknowledged that there were "130 to 140 people out on furlough that the courts would prefer to see incarcerated." Offenders are not serving time even when ordered behind bars by the court.

Lack of prison space is also dictating public policy decisions by the Legislature, which has passed laws relating to pretrial detainees when the prisons are full. Many of these individuals have long criminal records, some involving serious crimes.

Inadequate prison space also costs money. Providing additional prison space to incarcerate offenders will not only help to reduce the rise in crime and "revolving door" syndrome, but will enable the State to receive far more in crime savings than it pays in prison costs. These are reductions in current crime costs that state residents pay through law enforcement, victims' costs, personal protection, such as security measures, higher insurance premiums, or both, and business losses. The total cost of crime to victims in the United States is now about \$450 billion a year. On Oahu in 1994, 60,825 reported serious crimes cost the taxpayers \$143,181,250. The cost of property crime alone on Oahu in 1994 was \$54,000,000. The cost in 1994 for the Honolulu Police Department in court overtime was \$3,567,969. The cost for court standby time was \$842,472.

In addition, the proliferation of crime, especially in areas of high concentration of tourists, has a detrimental effect on the economy and image of the State. For example, the proliferation of crime in Waikiki is primarily committed by repeat offenders. Some criminals on the streets of Waikiki have as many as one hundred fifty prior arrests. This has resulted in Waikiki having a reputation among criminals as a place where crime does pay and incarceration is unlikely. Criminals who commit crimes against tourists also commit crimes against the community, affecting the health, safety, and welfare of the community.

Your Committee finds that while the transfer of inmates to out-of-state correctional facilities and supervised release programs are necessary in the short-run, the State cannot continue to resolve its prison overcrowding problem in this manner indefinitely. Long-term measures are needed to reduce overcrowding. This can be achieved by redirecting the focus of current public policy and coordinating efforts to enhance the provision of correctional facility growth in an informed manner by adding to the ongoing work of the Department of Public Safety.

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

- (1) Deleting sections 3, 4, and 7 of the bill, which would have provided for the refurbishing of the facility formerly used as the Women's Community Correctional Facility, for the expansion of the Hawaii Youth Correctional Facility, and for the nonlapsing of an appropriation for a capital improvement project in Hawaii county, respectively;

- (2) Amending section 1 to provide for the planning and design, but not construction, of a high security correctional facility in Halawa, Oahu, or other suitable site;
- (3) Amending section 2 to delete the provision for a "tent-like" prison facility, and to provide for a prison facility for minimum security inmates in Waiawa, Oahu, or other suitable site;
- (4) Amending section 5 to provide for the planning, but not construction, of a boot camp facility at any suitable site;
- (5) Adding a new section to effectuate the transfer of one hundred fifty inmates to out-of-state correctional facilities;
- (6) Amending section 6 to provide for the appropriation of moneys out of the general fund, rather than the issuance of general obligation bonds, for the planning and design, but not construction, of a medium security correctional facility in Hawaii county;
- (7) Adding appropriate dollar amounts; and
- (8) Renumbering the sections and making other technical, nonsubstantive amendments for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3095, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3095, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 7. Noes, none. Excused, none.

SCRep. 2356 Judiciary on H.B. No. 3302

The purpose of this bill is to propose the repeal of article VII, section 6, of the Constitution of the State of Hawaii, which requires that excess general fund revenues be returned to taxpayers, if the general fund balance at the close of each of two successive fiscal years exceeds five per cent of general fund revenues for each of the two fiscal years.

The Director of Finance testified in support of the intent of this bill, but strongly recommended that the bill include a further constitutional amendment to establish an emergency and budget stabilization (rainy day) fund. In the Director's opinion, this bill, because of its restrictive title, is not the proper vehicle to accomplish that goal, suggesting the use of S.B. No. 2223, S.D. 1, instead. The Attorney General expressed concern that constitutionally required sufficient notice had not been given to the Governor of the final form of the constitutional amendment by the House of Representatives. The Attorney General urged that, should the Legislature intend to place the proposed amendment on the ballot for the 1996 general election, the constitutionally required ten-day written notice requirement be met before passage of the bill. Comments were also received from the Tax Foundation of Hawaii.

Accordingly, your Committee has amended this bill by changing the effective date to June 31, 1996 for purposes of promoting further discussion.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3302, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3302, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 7. Noes, none. Excused, none.

SCRep. 2357 Judiciary on H.B. No. 3362

The purpose of this bill is to change the district boundaries on the island of Oahu for judicial as opposed to election and other purposes.

Specifically, this bill:

- (1) Describes for judicial purposes only, the Wahiawa District to include Waikakalaua, Waipio acres, and Mililani town, and the Waialua district to include the ahupuaas of Pupukeya, Paumalu, and Kaunala, and the part of Waialea, southeast of Waialea Stream; and
- (2) Specifies that the establishment of election districts is to be exclusively governed by article IV of the state constitution and chapter 25, Hawaii Revised Statutes, which pertains to reapportionment.

Your Committee finds that in 1989, Waikakalaua, Waipio acres, and Mililani town were transferred from the Ewa district to the Wahiawa district and in 1991, Sunset beach was transferred from Koolauloa to the Waialua district. These amendments to the law which made it more convenient for residents to report to a court house that was closer to their residence. However, problems arose regarding the way former district boundaries were used for the collection and comparison of census data and other statistical information. With the amended boundaries, data was no longer comparable over time.

Testimony was received from the Director of Business, Economic Development, and Tourism and the Chief Election Officer.

Your Committee has amended this bill by substituting provisions of S.B. No. 2709, S.D. 1, for that part of this bill describing the districts on Oahu for judicial and for non-judicial purposes. Both the Senate and the House bills seek to accomplish the same goal, to reestablish the pre-1991 boundaries for non-judicial purposes and to preserve the new boundaries for judicial purposes.

The instant bill as received provides for a description of the Wahiawa and the Waialua districts for judicial purposes by including in these districts, those areas which had been carved out from other districts as previously described. The senate's bill retains the original language of paragraph (3) but specifies that these seven districts on Oahu are for judicial purposes only and adds a new paragraph which reestablishes the boundaries of the Ewa and the Koolauloa districts as they were described pre-1989 and pre-1991, respectively, for the island of Oahu for purposes other than judicial purposes. Your Committee finds the language used in S.B. No. 2709, S.D. 1, to be clearer and less confusing.

These changes were recommended by the Department of Business, Economic Development, and Tourism and help to clarify the intent of the bill.

No change has been made to the provision of election districts being exclusively governed by article IV of the state constitution and chapter 25, Hawaii Revised Statutes.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3362, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3362, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 7. Noes, none. Excused, none.

SCRep. 2358 Judiciary on H.B. No. 3538

The purpose of this bill is to make certain housekeeping amendments to the criminal injuries compensation law.

Specifically, this bill:

- (1) Requires that a written appeal of a determination made by the administrator for a criminal injuries compensation claim be received by the commission within sixty days of the mailing of the decision;
- (2) Limits the attorney's fees that can be collected by an attorney to \$150;
- (3) Allows the criminal injuries compensation commission to reconsider their order or decision in the absence of an appeal;
- (4) Clarifies that the time period an applicant aggrieved of a decision by the commission may request reconsideration is within thirty days of mailing the order to the applicant's last known address;
- (5) Expands the eligibility for compensation by replacing "relative of a deceased victim" with "any person" in order to provide compensation for those who have incurred expenses on account of a deceased victim's injuries and death; and
- (6) Allows the denial of a claim in its entirety if an applicant makes a false statement or representation of a material fact.

This bill is substantially similar to S.B. No. 2882, which this Committee reported out earlier. The measures differ in the provision related to the denial of a claim where a false statement has been made. This bill gives the commission permissive authority to deny a claim, while S.B. No. 2882, S.D. 1, required denial of the claim upon disclosure of a false statement. Your Committee finds that giving the commission permissive authority to decide if the denial of a claim is appropriate and serves the purpose and intent of the criminal injuries compensation fund.

Your Committee agrees with the overall intent of this bill and has amended the bill by adding language that clarifies that the denial of a claim can only be made if the false statement or representation was discovered prior to the payment of compensation.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3538, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3538, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (McCartney).

SCRep. 2359 Judiciary on H.B. No. 3539

The purpose of this bill is to clarify the rights and duties between the criminal injuries compensation commission and persons who have received overpayments of compensation from the commission.

Basically, this bill reaffirms the common law principle of restitution to prevent unjust enrichment. Specifically, persons receiving overpayments from the commission are responsible for repayment. At the commission's discretion

repayments may be made to the criminal injuries compensation fund or applied as a set off against future payments. Exceptions to repayment apply when the recipient receives the overpayments through no fault of the recipient's own, and equity and good conscience outweigh the commission's right of recovery.

Your Committee notes that this measure is substantively identical to S.B. No. 2883, S.D. 1, which was passed out previously by your Committee.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3539 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (McCartney).

SCRep. 2360 Judiciary on H.B. No. 3542

The purpose of this bill is to authorize the Director of Public Safety to garnish, levy, or attach moneys earned or received by committed persons for any claims against those committed persons.

Present law prohibits moneys earned by committed persons and held by the Department of Public Safety from being subject to garnishment, levy, or other attachment for any purpose, except that of restitution to victims and child support payments. Your Committee believes that effective social rehabilitation of committed persons requires that these persons accept financial responsibility for their actions while incarcerated.

Your Committee finds, however, that many committed persons lack any sense of financial responsibility. Their extraordinary demands upon the State relating to copying and postage costs for litigation purposes and the chronic vandalizing of correctional facilities and furnishings result in several thousands of dollars of nonbudgeted expenses for the State annually. Your Committee further finds that instilling a sense of financial responsibility in a committed person cannot readily be accomplished when the State, rather than the committed person, always ends up paying the debts and expenses of the committed person. Moreover, your Committee believes it is patently unfair to place responsibility for a committed person's debts and expenses on the State's taxpayers.

Your Committee has amended this bill by amending section 2 by:

- (1) Reordering the numbered paragraphs to indicate the order of priority of the purposes for which an inmate's money may be attached;
- (2) Rewording the paragraph concerning extraordinary expenses to clarify that these relate to photocopying or postage costs for litigation purposes; and
- (3) Rewording the final sentence of section 2 to clarify that moneys collected pursuant to paragraph (3) or (4) are to be used to reimburse non-budgeted costs and expenses.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3542, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3542, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Tam).

SCRep. 2361 Judiciary on H.B. No. 3645

The purpose of this bill is to authorize the Attorney General to collect costs, as well as fines, assessed in a criminal case, in the same manner as if either were judgments in a civil action.

Also, this measure expressly grants the Attorney General these collection powers for both traffic crimes and traffic infractions.

Your Committee finds that present law gives the State civil remedies, such as garnishment and attachment and execution, for the collection of criminal fines, but not of the costs incurred in collecting on those fines. Allowing costs to be collected will serve to deter defendants from being delinquent on their payments because delinquency will only cause them to incur a greater debt to the State.

Additionally, most non-felony traffic crimes have been recently decriminalized into traffic infractions. This bill clarifies that delinquency in paying for traffic infractions does make the violator liable for costs.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3645, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 7. Noes, none. Excused, none.

SCRep. 2362 Judiciary on H.B. No. 3656

The purpose of this bill is to establish a private charitable trust fund known as the Judiciary History Center Trust Fund to be administered by the Friends of the Judiciary History Center.

This bill establishes a trust fund for the Judiciary History Center to function as a depository of all private and public contributions, including proceeds received from any concession or any other enterprise of the center. The proceeds of the fund will be used to carry out the purposes of the Judiciary History Center.

Your Committee has amended this bill to address a concern brought forward by the Hawaii Association of the Blind with respect to the provision which broadly exempts "judiciary history center facilities" from the law that requires food and beverage concession contracts in public buildings to be awarded to visually handicapped operators. To clarify the scope of the exemption, your Committee has limited its applicability to Judiciary History Center facilities "in the Ali'iolani Hale building". The Judiciary presented testimony assuring your Committee that the Judiciary History Center will not sell products (i.e., food, beverages, and other items) earmarked exclusively for sale under section 102-14(a), Hawaii Revised Statutes, by visually handicapped vendors.

Your Committee has made several other amendments and various technical changes to this bill in accordance with the recommendations submitted by the Judiciary and the changes made by your Committee to the Senate companion to this bill in an earlier hearing.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3656, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3656, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 7. Noes, none. Excused, none.

SCRep. 2363 (Joint) Judiciary and Agriculture, Labor, and Employment on H.B. No. 3636

The purpose of this bill is make the appointment process for the Registrar of the Land Court and the Director of Family Court consistent with the civil service requirements of chapters 76 and 77, Hawaii Revised Statutes.

Under present law, the Land Court Judge and the Senior Family Court Judge appoint the Registrar of the Land Court and the Director of Family Court, respectively. Your Committees find, however, that these positions are permanent civil service positions and, as such, have been filled in accordance with civil service requirements. This bill will conform the language regarding the appointment of these two positions with other civil service positions within the Judiciary.

In view of testimony received by the Judiciary, your Committees further find that certain civil service positions within the Judiciary should be made exempt positions to enable the Judiciary to more effectively meet its current staffing needs.

Your Committees have amended this bill by:

- (1) Adding a new section 1 that amends section 76-16(9), Hawaii Revised Statutes, to exempt the following from civil service requirements: one secretary for the Judicial Council; one additional law clerk for each of the Civil Administrative Judge, the Civil Motions Judge, and the Criminal Motions Judge of the First Circuit Court;
- (2) Correcting the reference in section 76-16(9) to "family court administrative judge of the family court of the fifth circuit" to read "senior judge of the family court of the first circuit";
- (3) Renumbering the sections consecutively; and
- (4) Making a number of technical, nonsubstantive changes for purposes of style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committees on Judiciary and Agriculture, Labor, and Employment that is attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3636, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3636, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.
Ayes, 7. Noes, none. Excused, 4 (Kanno, Matsunaga, Solomon, Tam).

SCRep. 2364 Judiciary on H.B. No. 3822

The purpose of this bill is to specify the class of persons to whom the police department may disclose information contained in the traffic accident reports.

Your Committee received testimony in support of the bill from the Attorney General and the Office of Information Practices.

Upon further consideration, your Committee amended the bill at the suggestion of the Attorney General to provide that this section controls over any other conflicting law.

Your Committee believes that this bill provides a proper balance of the individual's privacy interest in the personal information contained in the traffic accident report and the interest of parties who have direct involvement in a traffic accident and require copies of the report.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3822, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3822, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 7. Noes, none. Excused, none.

SCRep. 2365 (Joint) Hawaiian Affairs and Judiciary on H.B. No. 2746

The purpose of this bill is to establish the Hui 'Imi Pono Advisory Council (Council) to advise the State on various issues relating to Hawaiians.

This bill provides that the Council:

- (1) Be placed in the Department of Accounting and General Services for administrative purposes;
- (2) Have specified initial member organizations, which shall appoint their own representatives to the Council;
- (3) Advise the Governor, the Legislature, and public and private agencies serving Hawaiians on issues described in the Hui 'Imi Task Force Report, Volumes I and II and recommend priorities for implementation;
- (4) Serve as liaison between public and private entities serving the Hawaiian community; and
- (5) Submit an annual report to the Governor and the Legislature.

The Hui 'Imi Task Force (originally The Task Force for Hawaiian Services) was created by Senate Concurrent Resolution No. 106, 1989, to examine the provision of services to Hawaiians. Its defined purpose was to make findings and recommendations concerning the coordination of all public and private services available to Hawaiians in the areas of education, economic development, housing, employment, medical and health, legal, and cultural and social services. That study resulted in a two-volume report entitled, "The Hui 'Imi Task Force for Hawaiian Services", Volume I and Volume II.

Your Committees find that those reports contain valuable information and serve as a paradigm of a unique and extraordinary level of cooperation and coordination among task force member organizations, which included government representatives, their agencies, and members of the Hawaiian community. Your Committee believes that the efforts of the Task Force should be perpetuated. This bill would facilitate achieving that objective.

Your Committees also believe that this bill would serve to provide a legislative mechanism to review, monitor, evaluate, and advise on the progress of achieving the objectives outlined in the task force reports. An ancillary and perhaps symbolic benefit is that the Council is representative of the concept of public-private partnership, which has the potential of initiating new and collaborative approaches to examining social problems. Therefore, this bill has ramifications beyond Hawaiian issues by serving as an organizational model in general.

As affirmed by the records of votes of the members of your Committees on Hawaiian Affairs and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2746, H.D. 1, and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.
Ayes, 6. Noes, none. Excused, 4 (Levin, Matsunaga, Matsuura, Tam).

SCRep. 2366 Hawaiian Affairs on H.B. No. 3453

The purpose of this bill is to increase the limit of the State's liability on moneys borrowed by the Department of Hawaiian Home Lands (DHHL) or on departmental guarantees of repayment of loans made to lessees.

The Hawaiian Homes Commission Act of 1920 (section 214) allows the DHHL to borrow moneys from government agencies or private lending institutions or to guarantee mortgage loans made to lessees by private lending institutions, and provides that the State's liability for those borrowed moneys and loans shall not exceed a specified amount. This administration bill would increase the amount of that liability from \$21,000,000 to \$50,000,000.

This bill would allow the DHHL to borrow more moneys or to guarantee more loans obtained from private lending institutions for home mortgages. This will have the effect of increasing the number of homes that can be built on DHHL property and of allowing for more infrastructure development with moneys borrowed directly by the DHHL.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3453 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Levin).

SCRep. 2367 (Joint) Hawaiian Affairs and Judiciary on H.B. No. 3601

The purpose of this bill is to provide that the Office of Hawaiian Affairs (OHA) shall have standing to appear in and to contest actions in court for quieting title to kuleana lands.

The action must be for claims of title to Kuleana lands based upon or derived from an alleged escheat occurring before July 1, 1977, or adverse possession. This bill also clarifies the procedures for arriving at a judgment in these cases in which OHA is required to be joined as a defendant.

From 1866 until 1977, Hawaii law provided that when an owner or an interest in kuleana land died intestate, that person's interest in the land escheated to the konohiki owner of the ahupua'a or ili of which the kuleana land was originally a part. These were usually lands surrounding the kuleana land. However, your Committees find that in this process, many have claimed title falsely to those escheated lands for various reasons. Therefore, actions to quiet title have become necessary. In addition in 1987, the Legislature enacted a law to provide that when the owner of an interest in kuleana dies intestate, the interest passes to OHA as custodian of kuleana, to be held in trust for Hawaiians. This bill would properly clarify the procedures for quiet title actions involving OHA as a party defendant.

Your Committees received supporting testimony from OHA.

As affirmed by the records of votes of the members of your Committees on Hawaiian Affairs and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3601, H.D. 2, and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.

Ayes, 6. Noes, none. Excused, 4 (Levin, Matsunaga, Matsuura, Tam).

SCRep. 2368 Hawaiian Affairs on H.B. No. 3603

The purpose of this bill is to clarify the proper disposition of properties acquired by the Office of Hawaiian Affairs (OHA).

This bill requires that properties acquired by OHA be controlled and managed for the purposes of chapter 10, Hawaii Revised Statutes, relating to OHA, and subject to applicable constitutional requirements relating to trust lands.

Your Committee finds that this bill would assure that OHA performs its trust obligation with integrity in the management of those properties to the betterment of the Hawaiians and native Hawaiians whom OHA is statutorily intended to benefit.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3603, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 1 (Levin).

SCRep. 2369 Higher Education, Culture, and Arts on H.B. No. 2809

The purpose of this bill is to establish the Pearl City Cultural Center revolving fund into which fees, charges, and other moneys collected for the Pearl City Cultural Center programs shall be deposited and expended by the Department of Education for the operation, repair, maintenance, and improvement of the Cultural Center.

Your Committee has amended this bill by deleting its contents and by substituting an amendment to section 298-23, Hawaii Revised Statutes, to authorize the department of education to establish separate rates for unique facilities such as the Pearl City Cultural Center and crediting the schools responsible for the facilities with the net proceeds from rental assessments.

Your Committee has added a provision directing the revisor of statutes to conform this measure with any recodification of the education statutes.

As affirmed by the record of votes of the members of your Committee on Higher Education, Culture, and Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2809, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2809, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Fernandes Salling, Ikeda, Taniguchi).

SCRep. 2370 Higher Education, Culture, and Arts on H.B. No. 3481

The purpose of this bill is to appropriate \$9,372.25 from the special fund account of the Martin Luther King, Jr. Commission administered by the Department of Human Resources Development, to be expended by the Civil Rights Commission for activities related to the celebration of the Martin Luther King, Jr. state holiday.

Your Committee finds that Act 329, SLH 1991, established the Martin Luther King, Jr. Commission and a special fund known as the Martin Luther King, Jr. Celebration Fund. This fund accumulated \$9,372.25 from private donations. The Commission went out of existence on the sunset date of June 30, 1995.

Your Committee also finds that the Attorney General's office has advised the Department of Human Resources Development that the money contained in the special fund cannot lapse into the general fund because Act 329 was silent about disposition of the money and because of implied trust obligations.

Your Committee has received testimony in favor of the bill from the Department of Human Resources Development and the Hawaii Civil Rights Commission.

As affirmed by the record of votes of the members of your Committee on Higher Education, Culture, and Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3481, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Fernandes Salling, Ikeda, Taniguchi).

SCRep. 2371 Higher Education, Culture, and Arts on H.B. No. 3584

The purpose of this bill is to require that revenue collected from charges to students at the University of Hawaii be deposited into the University of Hawaii tuition and fees special fund.

Your Committee received supporting testimony from the University of Hawaii that this bill would clarify whether the law permits the deposit of proceeds from registration fees, out-of-state application fees, and credit by examination fees into the special fund.

As affirmed by the record of votes of the members of your Committee on Higher Education, Culture, and Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3584, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Ikeda, Taniguchi).

SCRep. 2372 (Joint) Ecology and Environmental Protection and Judiciary on H.B. No. 2895

The purpose of this bill is to allow the Director of Health to adopt rules to establish a field citation program to impose administrative penalties under the air and water pollution laws and the solid waste pollution law.

A field citation is defined as an on-site action to assess administrative penalties as provided in those laws.

Your Committees find that the enforcement of environmental protection laws would be greatly enhanced if the Department of Health had the ability to issue field citations on the spot for violations. Current laws provide for a system of written notices served by certified mail or personal service and for a hearing. This is often time consuming and ineffective in immediately stopping the alleged violation. This bill would remedy that difficulty by providing for immediate on-site citations.

On recommendation of the Attorney General and the Hawaii Sugar Planters' Association, your Committees have amended this bill to:

- (1) Add hazardous waste and underground storage tank enforcement;
- (2) Require the adoption of rules by the Director of Health prior to implementing a field citation program;
- (3) Allow field citations to be based on the statutory presumption that the violator's economic and financial conditions allow payment of the penalty, with the burden of proof to the contrary to be on the violator;
- (4) Negate consideration of factors statutorily required to be considered in imposing administrative penalties;
- (5) Provide that if a person receiving a citation contests the citation, the Director of Health may withdraw the citation and pursue the usual statutory remedies; and
- (6) Provide that any action to collect the administrative penalty imposed by a field citation shall be a civil action.

Your Committees have also added a drop-dead provision to repeal this Act in four years on June 30, 2000.

As affirmed by the records of votes of the members of your Committees on Ecology and Environmental Protection and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2895, H.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2895, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.
Ayes, 8. Noes, none. Excused, 2 (Aki, Ikeda).

SCRep. 2373 Ecology and Environmental Protection on H.B. No. 3793

The purpose of this bill is to require the Department of Agriculture (DOA) to adopt rules to allow the propagation, possession, ownership, and sale of selected endangered and threatened land plant species.

This bill provides that these plants must be cultivated in a nursery and not collected or removed from the wild. The intent of the bill is to foster and promote the cultivation and propagation of endangered plants. The DOA would determine which endangered plants to include in the rules.

Present law prohibits possessing, processing, selling (or offering for sale), delivering, carrying, transporting, or shipping of any endangered species of land plants. This bill would provide an exception for persons who certify that the plants have been grown from cultivated nursery stock and not collected or removed from the wild.

Your Committee believes that this bill would increase the availability of selected threatened and endangered species through commercial and private cultivation, thereby lessening the destruction of these species through takings from the wild.

Your Committee has amended the bill by deleting the requirement that a person certify that the plants are grown from cultivated nursery stock and making other amendments for clarity.

As affirmed by the record of votes of the members of your Committee on Ecology and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3793, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3793, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Aki, Chumbley).

SCRep. 2374 Health on H.B. No. 1559

The purpose of this bill was to maintain the existence of community-based primary health care centers throughout the State by repealing the sunset date from Act 70, Session Laws of Hawaii 1992, which established the system of community-based primary health care centers.

Act 70 has now sunsetted and your Committee has proposed to reestablish the community-based primary health centers via S.B. No. 2441 (1996). Therefore, your Committee deleted the contents of this bill and replaced it with language creating a new community hospitals system consisting of a commissioner of community hospitals, five regional boards, and thirteen public health care facilities. Your Committee finds that this measure is necessary to provide the community hospitals system with an administrative structure of governance which has sufficient flexibility and autonomy for the community hospitals to remain viable and competitive.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1559, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1559, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kanno).

SCRep. 2375 Health on H.B. No. 3238

The purpose of this bill is to require hearing and vision testing for children attending public and private schools in this State.

Each child in specified grade levels would be required to present the school with an official certification from an appropriate health professional attesting that the child has undergone the vision and hearing testing.

The hearing and testing special fund is created within the Department of Health to provide hearing and testing services for school children, and moneys from testing are to be placed in the fund.

Your Committee supports the health practice of routine and periodic hearing and vision testing of children and youth. This testing could be conducted in school, with most medical insurance covering diagnostic evaluations for symptomatic children and those who fail the screening. Proceeds derived by the Department of Education from those evaluations would be placed in the special fund.

Your Committee believes that sight and hearing are too critical to the health and learning ability of our children to go without evaluation and monitoring in school.

Your Committee has amended the bill to allow children to be exempted from either the hearing or vision test due to bona fide religious tenets and practices. The bill has been further amended to require the Departments of Education and Health to jointly devise a plan regarding their duties under the hearing and vision program; to report to the regular session of 1997 on their activities; to place the focus on the parent rather than the child to provide the necessary certificate; to shorten the period of time to produce the certificate to the six-month period commencing three months prior to the child's entrance into the school; to make the establishment of the program subject to available funds. Finally, the bill has been amended to preserve the amendments to this bill if any recodification of the education statutes passes this session.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3238, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3238, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kanno).

SCRep. 2376 Agriculture, Labor, and Employment on H.B. No. 2644

The purpose of this bill is to adjust how an employer's normal cost and accrued liability contributions are calculated by the Employees' Retirement System.

Specifically, the bill extends the actuarial valuation of eight percent for the Employees' Retirement System's investment yield rate to June 30, 2000, and lowers the assumed salary assumption rate from six and one-half percent to four percent.

Your Committee believes that, taking into account the State's current fiscal crisis, a lower salary assumption rate of four percent is more realistic. Additionally, lowering the salary assumption rate concurrently lowers a public employer's contribution to the Employees' Retirement System, thus allowing the public employer to redistribute funds originally allocated for this purpose.

Your Committee has amended the bill by adding a section that repeals from section 88-107, Hawaii Revised Statutes, the provision that requires earnings of the Employees' Retirement System in excess of the statutorily established investment yield rate to be credited against a public employer's contributions to the Employees' Retirement System.

Your Committee believes that the repeal of the excess earnings credit to public employers is financially advantageous to the State in that it will:

- (1) Result in over \$231.8 million being saved in public employer contributions over the next two years;
- (2) Reduce the public employers' concern over the financial volatility of fluctuating employer contributions from year to year since the excess earnings and shortfalls will be amortized over the employees' working careers;
- (3) Allow the Employees' Retirement System to maximize its investment earning capacity without worrying about contribution volatility;
- (3) Produce lower employer contributions in the long term; and
- (4) Allow the Employees' Retirement System to reduce its large unfunded liability to the point where it could become fully funded within ten years.

Additionally, your Committee believes that, based on the three year contribution credit lag formula, coupling the Employees' Retirement System's ability to retain its excess earnings with a four percent salary assumption will result in an immediate windfall of approximately \$42.5 million to the State General Fund for fiscal year 1996-1997.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2644, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2644, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Anderson).

SCRep. 2377 (Joint) Agriculture, Labor, and Employment and Economic Development on H.B. No. 3299

The purpose of this bill is to provide state support for expanded employee ownership and participation in Hawaii businesses. In particular, the measure requires the Department of Business, Economic Development, and Tourism, among other things, to assist owners and employees of Hawaii businesses in establishing employee ownership and participation plans, and to establish a continuing education and promotional outreach program to publicize the opportunities inherent in employee ownership and participation, in general.

Your Committees find that the bill is a reenactment of Chapter 213E, Hawaii Revised Statutes, which was repealed in 1993 when its sunset provision was not extended by the Legislature.

Your Committees support the measure as an effective means of promoting the implementation of employee ownership plans in Hawaii, which in turn, will increase employee job satisfaction, productivity, service quality, and profitability, while reducing workers' compensation costs and costs resulting from absenteeism.

Your Committees have amended the bill by deleting the Department of Business, Economic Development, and Tourism's ability to hire additional personnel to operate this program.

As affirmed by the records of votes of the members of your Committees on Agriculture, Labor, and Employment and Economic Development that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3299, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3299, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.
Ayes, 7. Noes, none. Excused, 3 (Matsuura, Solomon, Tam).

SCRep. 2378 Agriculture, Labor, and Employment on H.B. No. 3307

The purpose of this bill is to establish a Dairy Industry Revolving Fund.

The Dairy Industry Revolving Fund would receive its funding through all application and licensing fees collected by the Department of Agriculture under Chapter 157, Hawaii Revised Statutes.

Your Committee finds that the State's Milk Control Branch is funded via a direct assessment of the dairy industry. Under existing law, the assessments from the dairy industry are deposited in the General Fund and subsequently appropriated back to the Milk Control Branch each year through the budgeting process. By establishing a Dairy Industry Revolving Fund, the State would eliminate an otherwise time consuming accounting procedure.

In its report on special and revolving funds, the Auditor stated that "[t]he most defensible fund is one which derives all of its revenues through fees or taxes on the specific users of the program and which can meet all of its expenditures through its own revenues."

As the Dairy Industry Revolving Fund would be funded solely by the dairy industry for the benefit of the dairy industry, your Committee believes the Fund is fiscally defensible and a worthwhile financial mechanism for dairy-related programs.

Your Committee has amended the bill by making technical, nonsubstantive amendments to conform with recommended drafting style and procedure.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3307, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3307, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Anderson).

SCRep. 2379 Agriculture, Labor, and Employment on H.B. No. 3336

The purpose of this bill is to enable the Department of Agriculture to certify honey bee export shipments when health certificates are required as a condition of export.

Your Committee finds that certain honey bee importing countries require exporting countries to issue permits to producers who export honey bee queens. By enabling the Department of Agriculture to certify honey bee export shipments, the State would satisfy the requirements of these importing countries.

Your Committee believes that this bill will allow honey bee producers to export honey bee queens more expediently, thereby increasing economic opportunity within the State.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3336 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Solomon, Taniguchi).

SCRep. 2380 Agriculture, Labor, and Employment on H.B. No. 3425

The purpose of this bill is to provide emergency funding to ensure that the Insurance Commissioner can properly and adequately administer the workers' compensation insurance program.

Your Committee finds that although Act 234, Session Laws of Hawaii 1995 (Act 234), designated sources of revenues to be deposited into a special fund to provide funds for administering workers' compensation insurance for the fiscal period beginning July 1, 1995, and ending June 30, 1996, neither Act 234 nor any other act enacted during the 1995 Legislative Session authorized the Insurance Commissioner to expend the moneys in the newly established special fund. Without the necessary enabling language, the Insurance Commissioner cannot properly and adequately administer the workers' compensation insurance program.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3425, H.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Anderson).

SCRep. 2381 Agriculture, Labor, and Employment on H.B. No. 3612

The purpose of this bill is to allow the following to become contributory class A members of the Employees' Retirement System (ERS):

- (1) The Administrative Director of the State;
- (2) County managing directors;
- (3) County deputy managing directors; and

(4) Directors and deputy directors of the respective county departments.

The bill also specifies that the following are classified as contributory class B members of the ERS:

- (1) Police chiefs of the county departments;
- (2) Fire chiefs of the county departments; and
- (3) Deputies of the county police chiefs and fire chiefs.

Your Committee agrees that certain administrative personnel of the State and counties should be allowed to become contributory Class A members of the ERS. However, your Committee does not find it necessary to expressly include police chiefs and deputy chiefs and fire chiefs and deputy fire chiefs in the Class B category.

Accordingly, your Committee has amended the bill by removing references to police chiefs, deputy police chiefs, fire chiefs, and deputy fire chiefs from the bill. Your Committee has also amended the bill by adding the administrative director and deputy administrator of the courts, and the members of full-time boards and commissions of the State (the Public Utilities Commission, Hawaii Labor Relations Board, and the Labor and Industrial Relations Appeals Board) to the list of those eligible to become Class A contributory members.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3612, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3612, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Anderson).

SCRep. 2382 Education on H.B. No. 3434

The purpose of this bill is to allow the Department of Education to collect tuition for intersession programs of year-round schools.

Your Committee finds that more public schools are adopting year-round calendars that offer intersession programs as supplementary education between the regular academic sessions. Your Committee further finds that these intersession programs are similar to summer school programs and thus the Department should have the same authority to collect fees in support of these programs.

Your Committee has amended this measure by:

- (1) Inserting a provision directing the Revisor of Statutes to conform this measure with any measure enacted that recodifies the education statutes; and
- (2) Making technical, nonsubstantive changes for the purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3434, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3434, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Bunda).

SCRep. 2383 Education on H.B. No. 3439

The purpose of this bill is to make an emergency appropriation for public school electricity bills which will exceed the current fiscal year appropriations.

Your Committee finds that the Department of Education has projected a \$2.2 million shortfall in funds available for electricity used by the public schools during the 1995-1996 school year. Your Committee further finds that the projected shortfall is based upon school-by-school usage statistics over a twelve-month period ending with October 1995. Your Committee notes that the usage statistics were compiled based upon information provided by the various electric utilities operating in the State, and anticipates that more current statistics may be available and more useful in determining a more precise amount to be appropriated.

Thus, your Committee has amended this bill by:

- (1) Deleting the appropriation amounts for further consideration by the Committee on Ways and Means;
- (2) Adding a section declaring the amount and percentage by which the appropriation in this Act will exceed the general fund expenditure ceiling; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3439, H.D. 1, as amended herein, and recommends

that it pass Second Reading in the form attached hereto as H.B. No. 3439, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Bunda).

SCRep. 2384 (Joint) Education and Human Services on H.B. No. 3442

The purpose of this bill is to establish in law a private, nonprofit corporation for the purposes of coordinating policy, funding, and programs related to early childhood education and care.

Your Committees find that there is a critical need for systematic coordination of early childhood education and care services within the State. Your Committees agree that this coordination needs to involve both government agencies and the private sector in a collaborative effort. Your Committees further agree that the idea of creating and designating a private, nonprofit corporation for such coordination is an innovative and worthy concept. However, your Committees note that constitutional provisions appear to prohibit state government from providing preferences to certain private entities that are not extended to similar private entities.

Thus, upon further consideration and discussion, your Committees have amended this measure by:

- (1) Deleting the definitions from the new chapter;
- (2) Removing all references to specific private corporations and entities, and designating an unspecified, nonprofit, 501(c)(3) corporation as the coordinating body;
- (3) Adding language indicating that neither the corporation nor a community council should be construed as a state agency;
- (4) Changing the sunset date for the interdepartmental council from July 1 to June 30, 2001; and
- (5) Making technical, nonsubstantive changes for the purposes of clarity and proper drafting style.

As affirmed by the records of votes of the members of your Committees on Education and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3442, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3442, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.
Ayes, 7. Noes, none. Excused, 2 (Aki, Bunda).

SCRep. 2385 Education on H.B. No. 3592

The purpose of this bill is to allow for automatic nomination of candidates for board of education seats if only two persons file papers for the same seat requiring residency.

Your Committee finds that the board of education is composed of district and at-large representatives and involves nonpartisan nominations. Your Committee further finds that this measure will streamline the electoral process by eliminating the need for a primary election ballot when only two persons are running for the same board of education seat requiring residency.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3592 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Bunda).

SCRep. 2386 (Joint) Communications and Public Utilities and Consumer Protection on H.B. No. 3421

The purpose of this bill is to provide the Director of Commerce and Consumer Affairs with authority to appoint to positions within the Cable Television Division an administrator, engineers, financial analysts, and technical staff, exempt from Chapters 76 and 77, Hawaii Revised Statutes, and attorneys for purposes of enforcing chapter 440G, Hawaii Revised Statutes.

Your Committees find that the Cable Television Division, certified as a local franchising authority pursuant to the 1992 Cable Act, requires the authority to hire additional personnel that may not be readily available within the civil service system. The Division is responsible for regulating areas of cable television that are rapidly changing and diverse in nature. For instance, it is required to participate in the public, education, and government (PEG) programming that is such an important component of cable television service in the State.

PEG programming provides unique educational opportunities, as well as enriches the fabric of our democratic society by providing the public with the opportunity to view and participate in the political process. Commercial free broadcasts of state legislative proceedings, hearings, and meetings offer many neighbor island residents their only direct link to the State Capitol.

Your Committees find that levels of PEG programming are not uniform throughout the State or even throughout each county. A mechanism needs to be established to help increase levels incrementally so that PEG programming will be at a consistent level in consonance with the demand for this type of programming.

Your Committees have amended this measure by adding language requiring that, for all new cable franchises or for cable franchise transfers, the levels of PEG access programming shall be consistent with the prevailing standard for that county.

As affirmed by the records of votes of the members of your Committees on Communications and Public Utilities and Consumer Protection that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3421, H.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3421, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.

Ayes, 7. Noes, none. Excused, 6 (Aki, Chumbley, Iwase, Kanno, Matsuura, Anderson).

SCRep. 2387 Economic Development on H.B. No. 3208

The purpose of this bill is to establish a one-year blue ribbon task force on small business within the Department of Business, Economic Development, and Tourism to review:

- (1) All existing state administrative rules relating to small businesses;
- (2) All state-originated proposed rules and amendments to existing rules that affect small businesses prior to their adoption; and
- (3) All state laws that act as a barrier to the formation, operation, and expansion of small businesses in the State.

Your Committee finds that the success of small businesses is vital to the State's economic development and growth. State government, to the greatest extent possible, should create a business environment that facilitates that success; at a minimum, it should not unreasonably hinder small businesses.

Your Committee recognizes that the current regulatory regime facing small businesses in the State may be, in many instances, overly burdensome. Among the laws often cited as hampering small businesses are mandated benefits, such as workers' compensation, health care, and motor vehicle insurance benefits; unemployment insurance costs; payroll costs; state and county taxes; and licensing and permit fees.

Your Committee supports this measure as an excellent means of identifying those laws and administrative rules that are unreasonably burdening our small businesses. With this information in hand, lawmakers, together with businesspeople and the community at large, will be better able to plan, enact, and implement meaningful regulatory reform.

Your Committee has amended this measure by changing the repeal date from June 30, 1997, to June 30, 1998, and by making several technical, nonsubstantive amendments for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Economic Development that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3208, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3208, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.

Ayes, 3. Noes, none. Excused, 2 (Levin, Matsuura).

SCRep. 2388 (Joint) Economic Development and Ecology and Environmental Protection on H.B. No. 3308

The purpose of this bill is to provide a more realistic framework under which the Department of Business, Economic Development, and Tourism (DBEDT) may act to assist the emerging recycling industry in Hawaii, by:

- (1) Dissolving the governing board of the Clean Hawaii Center (Center);
- (2) Maintaining the Center's programs until June 30, 1999; and
- (3) Authorizing DBEDT to receive moneys from other government agencies through a simple transfer of funds.

Your Committees find that administrative and budgetary restrictions have severely constrained the ability of the Center's governing board to properly direct the policy, operations, and budget of the Center. The State's fiscal problems have resulted in the Center's staff being limited to one person and its budget allocation severely cut.

As a result of these restrictions, it has become clear that the original goals and objectives of the Center cannot be met under the current statutory framework.

Your Committees reiterate their belief, however, that the mission of the Center remains of vital importance to the economic and environmental future of the State. In light of limited landfill options and the shortage of job opportunities in the State, the value of recycling and the cost savings to be realized by diverting recyclable materials are more important now than ever.

Your Committees support this measure as a means of streamlining the Center, while preserving its ability to facilitate recycling and environmental business and technology development.

Your Committees have amended this bill by:

- (1) Requiring DBEDT, rather than authorizing it as under current law, to use moneys in the Clean Hawaii Fund not appropriated for a designated purpose to, among other things, make grants, enter into contacts, and organize and sponsor workshops and studies relating to the recycling business;
- (2) Adding an exempt staff position for the Center, to be compensated at an annual salary level of not more than \$48,000;
- (3) Requiring DBEDT, rather than authorizing it as under House Draft No. 1, to appoint committees from the public and private sectors to provide advice and direction for the operation of the Center until its closure in 1999;
- (4) Requiring DBEDT to submit to the Legislature on or before January 1, 1997, a business plan and timetable for the Center; and
- (5) Making several technical changes and several nonsubstantive amendments for purposes of style and clarity.

As affirmed by the records of votes of the members of your Committees on Economic Development and Ecology and Environmental Protection that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3308, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3308, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.
Ayes, 6. Noes, none. Excused, 2 (Aki, Ikeda).

SCRep. 2389 Economic Development on H.B. No. 3852

The purpose of this bill is to facilitate the issuance of special purpose revenue bonds for ETV Hawaii/Elephant Television, Inc., in compliance with federal tax laws, by:

- (1) Increasing the authorized bond issuance amount from \$6,000,000 to \$10,000,000; and
- (2) Extending the lapsing date for issuance of the special purpose revenue bonds from June 30, 1998 to June 30, 2001.

Your Committee finds that this measure will assist ETV Hawaii/Elephant Television, Inc. in the development of a state-of-the-art film and television industry production and training facility near Kahului, Maui.

Your Committee, acting on the advice of the State's bond counsel, has amended this measure by:

- (1) Clarifying in Section 1 of the bill that Act 240, Session Laws of Hawaii 1993, did not independently authorize the issuance of bonds, but merely amended Act 278, Session Laws of Hawaii 1991, which did authorize the issuance of bonds to ETV Hawaii/Elephant Television, Inc.;
- (2) Clarifying in Section 1 of the bill that under current federal law, bonds authorized pursuant to Act 278, as amended, cannot be issued such that the interest thereon is exempt from federal income taxation, and it is therefore advisable to further revise Act 278 to expressly permit the issuance of the bonds authorized pursuant to Act 278, as amended, to be issued as taxable bonds;
- (3) Clarifying in Section 1 of the bill that the purpose of the bill is also to expressly provide that the bonds may be issued notwithstanding that the interest thereon may be subject to federal income taxation;
- (4) Amending Section 4 of Act 278, as amended, to allow for the issuance of taxable special purpose revenue bonds; and
- (5) Making several technical amendments and nonsubstantive changes for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Economic Development that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3852, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3852, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Ige).

SCRep. 2390 Human Services on H.B. No. 3454

The purpose of this bill is to make an emergency appropriation as permitted by article VII, section 9, of the State Constitution, for child foster care payments by the Department of Human Services' Family and Adult Services Division.

A critical funding emergency exists. The foster care program will run out of the funds previously appropriated for this fiscal year before the year's end, leaving the Department unable to meet its obligation to provide foster board and board-related costs for children needing out-of-home care.

Your Committee finds that the State cannot abandon its protection of this extremely vulnerable group of children. Foster care services must continue to be provided. The appropriation, which will be made out of federal funds, will fulfill this obligation.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3454, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Aki).

SCRep. 2391 Human Services on H.B. No. 3456

The purpose of this bill is to allow the Department of Human Services (DHS) to certify certain foster and child care facilities and organizations for a period of two years.

Current law provides for a duration of one year for a certificate of approval for a child placing organization, child caring institution, or child foster boarding home. After the one year, there is an investigation to ascertain if there has been compliance with standards set by the DHS. This bill would allow the DHS the option to certify child placing organizations, child caring institutions, and foster boarding homes for two years upon a finding from an annual or biennial investigation that there has been compliance with those standards.

This administration bill would allow the licensing workers to focus more attention on the recruitment and initial licensing of foster homes. Due to the increase in the number of homes that need to be licensed, there is a backlog in licensing. In addition, reducing the number of homes that need to be certified annually would enable the workers to conduct more studies during the recertification process and provide more on-going monitoring, support, and assistance to the agencies and homes.

According to the DHS, it received favorable support for this amendment from child placing organizations, child care institutions, and the Hawaii Foster Parent Association.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3456 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Aki).

SCRep. 2392 Human Services on H.B. No. 3459

The purpose of this bill is to repeal the "Board of Human Services" within the Department of Human Services (DHS).

The statutory function of the Board of Human Services is to serve in an advisory capacity to the DHS. According to testimony of the DHS, members of the Board of Human Services could better serve the DHS in that capacity by becoming members of one of the programmatic advisory committees serving the DHS.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3459 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Aki).

SCRep. 2393 Human Services on H.B. No. 3460

The purpose of this bill is to require the Department of Human Services to release the identity of certified foster parents and approved relative caregivers to any association, agency, or government entity which would be of benefit to those parents and caregivers, upon their consent to do so.

This bill would enable associations and agencies that provide support, training, and technical assistance to foster parents and caregivers to contact those persons and thus to increase communication, support, and assistance to them. Raising foster children is a monumental challenge. The end result of this bill would be to benefit the foster child by creating a strong support system among foster parents.

Your Committee received supporting testimony from the Department of Human Services and the Hawaii State Foster Parents Association.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3460, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Aki).

SCRep. 2394 Human Services on H.B. No. 3461

The purpose of this bill is to make an emergency appropriation of funds for health care payments under various federal programs.

Specifically, the bill appropriates the sum of \$96,037,955 for fiscal year 1995-1996 for the Hawaii QUEST and medicaid programs. Under the new federal block grant formula, the Department of Human Services must increase its federal ceiling in order to meet its fiscal obligation to provide health and health related services to Hawaii QUEST and medicaid recipients.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3461 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Aki).

SCRep. 2395 Human Services on H.B. No. 3503

The purpose of this bill is to create a decategorization demonstration program for multi-problem and multi-service children, adolescents, and their families receiving service from the Departments of Health, Education, and Human Services, and the Office of Children and Youth.

The demonstration program created by this administration bill would develop coordinated interdisciplinary pilot projects that may demonstrate more effective and efficient ways to deliver mental health, educational, and protective services to this target population. To this end, most notable is the creation of a single coordinator and the authority to transfer funds among the departments.

Your Committee finds that the service needs of multi-problem children frequently fall outside of traditional categorical programs. Consolidated decategorized funding will provide a mechanism for the development of improved means of delivering these much-needed services. Your Committee received testimony indicating that there is presently a lack of coordination and cooperation among the departments and among divisions within a department. This bill would remedy this by providing for a means of collaboration, streamlining, and accessibility to services by the target population.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3503, H.D. 3, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Aki).

SCRep. 2396 Agriculture, Labor, and Employment on H.B. No. 4035

The purpose of this bill is to replace the State's current soil packaging standard with language that conforms to the National Institute of Standards and Technology Handbook, 130 (1993 edition) to:

- (1) Better maximize the use of container space, thereby reducing shipping costs per unit; and
- (2) Allow the marketing of soil media products that are packaged in sizes that currently do not conform to administrative standards.

Currently, the Department of Agriculture's administrative rules require soil media products to be sold in very specific units. These rules are now in the process of being reviewed because of a trend to eliminate specific sizes for certain consumer commodities.

Your Committee believes that by broadening the scope of allowable unit measurements, soil media products currently not available in the State will become available to Hawaii's consumers.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4035, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Anderson).

SCRep. 2397 Agriculture, Labor, and Employment on H.B. No. 3470

The purpose of this bill is to allow the Director of Human Resources Development to select an individual, even if not a state employee or officer, to serve as a volunteer subject matter consultant in the preparation and rating of civil service examinations and applications; and to preserve the confidentiality of the identity of the subject matter consultant.

Testimony in support of the bill was submitted by the Department of Human Resources Development (DHRD) and by the County of Hawaii Department of Civil Service. Your Committee was informed that DHRD relies on the services of volunteer consultants in preparing and rating its examinations and applications. These consultants often participate upon the promise of confidentiality to avoid the possibility for harassment and coercion. Preserving the identity of the consultants would protect the integrity of the examination process and reduce the opportunity for coercion or harassment. The Office of Information Practices issued an opinion that, notwithstanding these concerns, the identity and background

information of volunteer consultants was public information. If DHRD cannot preserve the identity of its consultants it may well lose the services of these volunteers and may be in danger of violating Federal Uniform Guidelines on Employee Selection which require the use of subject matter consultants.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3470, H.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Solomon, Anderson).

SCRep. 2398 Agriculture, Labor, and Employment on H.B. No. 3332

The purpose of this bill is to give the Department of Agriculture (DOA) the flexibility to accept any junior lien provided there is ample equity and there are no prior liens that may jeopardize the security position of the DOA or the borrower's ability to repay.

In securing loans by the DOA, there may be circumstances in which real property with sufficient equity is available for use as collateral, but the property may be encumbered with a second mortgage. This measure would give the DOA added flexibility in requiring and accepting security for an agricultural loan.

Your Committee has amended the bill by adding two new sections which make permanent, the DOA's authority to move moneys between the Aquaculture Loan Revolving Fund and the Agriculture Loan Revolving Fund and the requirement that the DOA must annually report any transfers to the Legislature.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3332, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3332, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Anderson).

SCRep. 2399 Agriculture, Labor, and Employment on H.B. No. 3525

The purpose of this bill is to repeal chapter 188E, Hawaii Revised Statutes, relating to the Hawaii Fisheries Coordinating Council (Council).

The Board of Land and Natural Resources testified in support of this administration bill. The Council was created in 1980 to coordinate fisheries interests as the lack of coordination was perceived to be a constraint on the expansion and development of the fishery industry. Since then, Hawaii's fisheries have become either fully or over-exploited, and the further development of Hawaii's fisheries is no longer a priority. The Council has not met in the past two years due to budget constraints, and has no budget for fiscal biennium 1995-1997.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3525 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Solomon, Anderson).

SCRep. 2400 Communications and Public Utilities on H.B. No. 3964

The purpose of this bill is to ensure that the State achieves cost savings by improving its data collection and analysis operations.

Specifically, this bill:

- (1) Requires the Department of Health and the Department of Human Services to analyze their data collection and analysis methods and other operations that may benefit from the use of advanced computing technologies;
- (2) Requires the use of performance-based contracts in which a vendor would be compensated according to performance standards established by the departments; and
- (3) Requires annual status reports by both departments until full implementation has been completed.

Your Committee has amended this bill by deleting its substance and inserting therefor, language that enables state government to streamline its operations via the use of electronic media to provide more timely and effective services to the general public.

As affirmed by the record of votes of the members of your Committee on Communications and Public Utilities that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3964, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3964, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Chumbley, Kanno, Matsuura).

SCRep. 2401 Higher Education, Culture, and Arts on H.B. No. 2505

The purposes of this bill are to:

- (1) Give excavations of any Hawaiian fishponds and historic property as defined in section 6E-2, Hawaii Revised Statutes (HRS), priority in the water quality certification and permit process;
- (2) Require the director to issue written decisions on the completeness of any application;
- (3) Require the director to specify in writing the reasons for the application's incompleteness if the director determines the application is incomplete; and
- (4) Add a new section to chapter 6E, HRS, relating to the restriction of the sale of antiquities and providing penalties for violations.

Your Committee received testimony in support of the bill from the Board of Land and Natural Resources, the University of Hawaii, the Historic Hawaii Foundation, and several individuals who have submitted applications for permits to the Department of Health.

Your Committee has amended the bill by:

- (1) Rewriting the purpose section for clarity;
- (2) Deleting excavations from the priority processing of applications for permits and water quality certification;
- (3) Adding Hawaiian cultural artifacts, and sunken airplanes and ships more than fifty years old to the priority processing of applications for permits and water quality certification process;
- (4) Deleting the requirement that the attorney general enforce the new section on the sale of antiquities;
- (5) Amending the definition for "Antiquity" to mean items over one hundred years old instead of fifty years old;
- (6) Clarifying the definition for "right of possession" by including examples for determining when authority of alienation exists;
- (7) Adding a new provision that allows the State to pursue civil as well as criminal action against violators of the new section on antiquities; and
- (8) Making nonsubstantive, technical amendments for clarity.

Your Committee received testimony from the Department of Health in support of the amendment to delete excavations from the priority permitting process. Your Committee finds that dredging and disposal of dredged spoils in sensitive coastal areas are potentially damaging activities and require a permit from U.S. Army Corps of Engineers and a water quality certification from the State.

As affirmed by the record of votes of the members of your Committee on Higher Education, Culture, and Arts that is attached to this report, your Committee 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 Ecology and Environmental Protection.

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Fernandes Salling, Ikeda, Taniguchi).

SCRep. 2402 Higher Education, Culture, and Arts on H.B. No. 3890

The purpose of this bill is to authorize the adjutant general to award University of Hawaii scholarships to qualified members of the Hawaii National Guard, and to appropriate the sum of \$1 from the general revenues of the State to be expended by the Department of Defense to provide University of Hawaii scholarships to Hawaii National Guard personnel.

Your Committee finds that the National Guard has a federal as well as a state mission. It is the only military force that responds to the Governor under state orders. Because of its federal mission, the Hawaii National Guard receives state-of-the-art equipment, additional training spaces and dollars, improved facilities, and other federal support at a time when military downsizing and funding reductions are occurring in other states across the nation. The federal government provided over \$141,000,000 for Hawaii National Guard personnel salaries, operating costs, equipment, facilities, and auxiliary services and programs. In order for the Hawaii National Guard to continue to receive federal recognition and funding, the Guard must maintain federally prescribed personnel unit strength. Your Committee believes the tuition assistance program is necessary to attract and retain quality soldiers and air personnel in a highly competitive recruiting environment.

Your Committee received testimony in support of the bill from the University of Hawaii, the State of Hawaii Department of Defense, the Hawaii National Guard Association, and numerous National Guard personnel.

Your Committee has amended the bill by:

- (1) Substituting the words "tuition assistance" for "scholarships";
- (2) Rewriting the purpose section for accuracy and clarity;
- (3) Deleting the requirement that the Adjutant General adopt rules in accordance with chapter 91, Hawaii Revised Statutes (HRS), to award tuition assistance to qualified personnel as section 121-5, HRS, already grants the necessary authority; and
- (4) Making nonsubstantive, technical amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Higher Education, Culture, and Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3890, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3890, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Ikeda, Taniguchi).

SCRep. 2403 (Joint) Human Services and Agriculture, Labor, and Employment on H.B. No. 4131

The purpose of this bill is to reform the welfare system within the context of the current depressed fiscal conditions and anticipated federal program restrictions while preserving individual dignity and improving the human condition.

This bill would give public assistance recipients every opportunity to work, to save money to eventually leave the welfare rolls, to receive job training, and to develop vocational skills through the creation of the Hawaii Welfare Employment and Training Program.

Your Committees have given much deliberation and discussion to this bill and are aware that welfare reform is a difficult and sensitive issue requiring careful consideration of several major issues: the purpose of welfare, work incentives, employer incentives, education and training, state budgetary shortfalls, and anticipated federal program alterations which are not yet enacted. In view of the complexity, magnitude, and ramifications of these issues, and after consultation with all parties concerned with this matter to reach a consensus, your Committees have amended this bill as follows:

- (1) Amending section 1 to reflect the intent of the amendments and to state the policy of welfare assistance in this State;
- (2) Deleting section 2;
- (3) Adding a new section 2 to define "exempt household";
- (4) Providing in section 3 new requirements for the formula for calculating disregard amounts to determine eligibility for public assistance and deleting other amendments;
- (5) Deleting section 4, regarding creation of a task force;
- (6) Adding a new section 4 to clarify the requirements for determining the amount of assistance allowance as based on a percentage of standard of need; and
- (7) Deleting section 5, regarding codification and substituting appropriate section numbers, and section 6, regarding severability of provisions.

Your Committees wish to state very emphatically and unequivocally that they concur with the concerns expressed by welfare advocates, as follows:

- (1) That the budget of the Department of Human Services is already based on a reduction in funding and that further cuts to the JOBS Program and the Aid to Families with Dependent Children program might jeopardize the minimal sufficiency of these grants if cuts are made prematurely in anticipation of as yet unknown federal funding reductions; and
- (2) That every dollar of state welfare program reductions translates into a dollar less of federal matching funds, resulting in a loss of twice the amount of dollars for human services.

Your Committees believe that this bill, as amended, should represent the bottom line in welfare reductions and that the Department of Human Services should not further reduce the funding administratively regardless of budgetary constraints.

The plight of Hawaii's poor and homeless needs no graphic description, and it is getting worse. The current situation is the harbinger of total destitution and hopelessness for large numbers of our population who cannot do for themselves in an economy with a high cost of living, high cost of housing, high unemployment, lack of industries and jobs, and cutbacks in social services. This is a formula for human failure and societal disintegration.

Those most affected are probably the children on welfare. Their future is bleak because their present condition is miserable and worsening by the day. Their ability to eat, to live, to learn, and to have a normal development is on the line and fast falling off to nowhere. This has unconscionable implications to the future of Hawaii. In a state where normal, hard-working families are struggling to make ends meet, what hope is there for those in poverty and destitution who must depend on welfare assistance and services for survival? This dismal scenario is the reality.

Your Committees pass this bill with the heartfelt hope, though perhaps overly optimistic, that this bill will provide a modicum of a rational, sensible, and humane approach to reforming the welfare system.

As affirmed by the records of votes of the members of your Committees on Human Services and Agriculture, Labor, and Employment that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 4131, H.D. 3, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 4131, H.D. 3, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.
Ayes, 6. Noes, none. Excused, 3 (Aki, Solomon, Anderson).

SCRep. 2404 (Joint) Housing and Education on H.B. No. 757

The purpose of this bill is to authorize the Housing Finance and Development Corporation (HFDC) to plan, develop, construct, and finance educational facilities and related infrastructure ancillary to the needs of its housing projects, and to make loans or grants to cover planning, engineering, and other initial costs for educational facilities and related infrastructure ancillary to its projects.

Testimony in support of this measure was received from the Department of Education while the Housing Finance Development Corporation opposed the bill on the basis that it is duplicative of Act 210, Session Laws of Hawaii 1995, and other laws.

Your Committees understand that this measure is similar to Act 210 which was passed by the 1995 Legislature, with the addition that HFDC may make loans or grants to provide for educational facilities and related infrastructure ancillary to its projects. However, your Committees understand that HFDC utilizes revolving funds to finance affordable housing developments. Any moneys expended by HFDC must be recouped in order to enable HFDC to undertake additional housing projects. The use of HFDC resources to carry out the intent of this bill would detract from HFDC's ability to fulfill its housing mission.

Your Committees are also cognizant of the fact that it is the desire of the community of Kapolei to expedite the development of schools in their area. Accordingly, your Committees have amended the bill by deleting the contents of H.B. No. 757, H.D. 1 in its entirety and replacing it with the language from S.B. No. 3011, S.D. 2, which authorizes HFDC to enter into development agreements with private developers to expedite the construction of school facilities for the villages of Kapolei, in accordance with all applicable state and federal laws.

As affirmed by the records of votes of the members of your Committees on Housing and Education that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 757, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 757, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.
Ayes, 4. Noes, none. Excused, 4 (Holt, Matsunaga, Tam, Liu).

SCRep. 2405 Housing on H.B. No. 3101

The purpose of this bill as received by your Committee is to make housekeeping amendments and to clarify and conform various sections of Chapter 514A, Condominium Property Regime, Hawaii Revised Statutes (HRS). In addition, the bill proposes to change the registration of condominium managing agents ("managing agents") and association of apartment owners ("associations") from an annual to a biennial basis. More specifically, the bill:

- (1) Clarifies that the Real Estate Commission has no authority over Section 514A-69, HRS, which is a private cause of action and a civil matter;
- (2) Conforms and makes consistent statutory language regarding penalties and fines;
- (3) Ensures that the Commission receives pertinent information on all condominium projects over a year old in which an association of apartment owners has yet to be organized, which is available to the public, and also ensures that whomever is responsible for the management contract shall make copies available to the other parties to the contract as well as to any requesting apartment owner;
- (4) Clarifies and conforms various provisions and changes the registration period of managing agents and associations from an annual period to a biennial period;
- (5) Imposes sanctions on all persons before the Commission who make false statements; and
- (6) Includes a fee schedule if the Department of Commerce and Consumer Affairs is not able to amend the present annual fees in Chapter 53, Hawaii Administrative Rules, to biennial fees by the start of the new registration periods.

Your Committee received testimony in support of this measure from the Real Estate Commission ("Commission"), Community Associations Institute-Hawaii Chapter, and the Hawaii Association of Realtors. In addition, a private citizen also submitted testimony.

The Committee finds that the suggested changes to the condominium statute would be helpful not only in implementing the provisions of the law, but also in reducing the workload of the Commission staff and in keeping costs down. In

addition, your Committee understands that the Commission will also benefit in terms of resource allocation with a biennial fiscal year registration system. This will save resources for the associations and managing agents and any costs associated with completing the registration forms. The information will also be current as associations have their annual meetings from January to June when key decisions are made on officers, budget, and other pertinent issues. Changing to a biennial renewal cycle for both managing agents and associations will align with the Department of Commerce and Consumer Affairs' renewal cycle system, thus ensuring a more consistent process.

Your Committee is cognizant that this measure is closely identical to S.B. No. 2504, S.D. 1, which was passed out of Committee. However, some concerns were expressed on the Senate version, more specifically section 11, concerning the fee schedule which is necessary in the implementation of this bill, but appeared to be an impediment to the passage of the bill out of the Senate.

Therefore, your Committee has amended the bill by deleting the contents of H.B. No. 3101, H.D. 2, in its entirety and replacing it with the language from S.B. No. 2504, S.D. 1. In addition, the fee schedule has been deleted.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3101, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3101, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Chumbley, Holt).

SCRep. 2406 Housing on H.B. No. 3380

The purpose of this bill is to authorize the Housing Finance and Development Corporation (HFDC) to issue an additional \$77,500,000 in tax-exempt revenue bonds for the Hula Mae Multi-Family Mortgage Purchase Program.

Testimony in support of this bill was submitted by the HFDC.

The Hula Mae Multi-Family Program provides non-profit and for-profit developers with below-market interest rate loans for the development of affordable rental projects. Under this program, the HFDC is authorized to issue tax-exempt revenue bonds, and to make eligible project loans to finance projects that provide for either (1) the addition of new units to the rental housing inventory of the State, or (2) the rehabilitation and preservation of existing housing accommodations.

The HFDC is currently authorized, under the program, with the approval of the Governor, to issue tax-exempt revenue bonds in the aggregate principal amount of \$122,500,000.

Testimony revealed that to date the HFDC has issued \$40,150,000, worth of revenue bonds for three projects with a total of 539 units. This leaves only \$82,350,000 of bond authority available to the HFDC and private developers. The bonds are issued by the HFDC on behalf of private developers. The debt obligation of the bonds are the sole responsibility of the developer, and not the HFDC or the State. In addition, the HFDC requires that all bond issues be credit enhanced via bond insurance or letters of credit to insure the credit status of the HFDC.

Your Committee finds that with the HFDC's increased promotion of the rental housing financing programs, the growing demand for funds may exceed supply. It is crucial that the HFDC secure an adequate amount of bond authorization. Therefore, it is recommended that an additional \$77,500,000 of revenue bond authorization be granted, to bring the aggregate authorization up to \$200,000,000.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3380 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Chumbley, Holt).

SCRep. 2407 Housing on H.B. No. 3411

The purpose of this bill is to amend sections 521-74(a) and 521-77, Hawaii Revised Statutes, relating to the Landlord-Tenant Code to expand protection from retaliatory eviction. The bill will preclude retaliatory evictions in situations where the tenant has complained to any division of the Department of Commerce and Consumer Affairs (DCCA), including complaints relating to a real estate broker or salesperson licensed by the State, rather than just in situations where the tenant has complained to the Office of Consumer Protection.

Testimony in support of the bill was submitted by the DCCA.

Testimony revealed that the retaliatory section of the Landlord-Tenant Code was designed to protect the tenant if the tenant complained to various governmental agencies about code violations. Because the Office of Consumer Protection has overlapping jurisdiction with a number of other divisions within the DCCA, it is conceivable that a tenant could file a complaint with another division, such as the Regulated Industries Complaints Office or the Real Estate Commission, and be subjected to retaliatory eviction. This bill would prohibit such a scenario, and would permit other divisions within DCCA to deal with Landlord-Tenant Issues.

Your Committee finds that this bill will increase the flexibility in assigning the investigation and complaint resolution function by allowing other divisions in DCCA to participate and assist.

Your Committee has amended Section 2 to ensure that the Office of Consumer Protection remains primarily responsible for investigation and complaint resolution while enabling the other DCCA divisions to also assist and participate.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3411, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3411, H.D. 1, S.D. 1, and be referred to the Committee on Consumer Protection.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Chumbley, Holt).

SCRep. 2408 Housing on H.B. No. 3415

The purpose of this bill is to repeal the requirement that a homeless facility or program file a copy of its current house rules and regulations governing tenancy or participation with the Director of Commerce and Consumer Affairs before it can issue a warning or request to leave for violating house rules and regulations.

Testimony in support of this bill was submitted by the Hawaii Housing Authority (HHA) and the Department of Commerce and Consumer Affairs (DCCA).

The Honolulu Police Department testified in opposition to this measure on the basis that it was unnecessary, there was no state of mind provided, and no standard to determine when house rules were reasonable.

Testimony revealed that the requirement that a homeless facility or provider agency file a copy of the current house rules and regulations governing tenancy or participation, as a precondition to the issuance of a warning or request to leave, is an unnecessary formality. The DCCA has no power to approve or reject rules and regulations. There are no standards for such a review and the department has no expertise that would render the assignment of the substantive review function to DCCA appropriate.

Your Committee finds that under these circumstances, this filing requirement is a technicality that hinders the efficient management of homeless facilities and programs.

Your Committee has amended the bill by:

- (1) Deleting the ambiguous requirement that a person is guilty of a misdemeanor if that person enters or remains unlawfully in a homeless facility after being requested to leave; and inserting instead the requirement that the person act wilfully;
- (2) Deleting the requirement that the house rules and regulations be reasonable since no standards for such a determination exist or appear necessary as a homeless facility should have the right to establish conditions and rules for its tenants to abide by; and
- (3) Making technical and nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3415, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3415, S.D. 1, and be referred to the Committee on Consumer Protection.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Chumbley, Holt).

SCRep. 2409 Housing on H.B. No. 3602

The purpose of this bill is to exempt the Maunalaha subdivision on Oahu from all State and County subdivision and housing development standards and to require the Office of Hawaiian Affairs (OHA) to file a status report in five years with the Legislature.

Testimony in support of the bill was submitted by OHA. Favorable testimony was also submitted by the Department of Land and Natural Resources requesting that OHA and the Maunalaha Valley residents expand their program to involve all the Maunalaha families who received leases from the department.

Testimony revealed that most of the residents of Maunalaha now live in substandard houses. Since obtaining long term leases from the State in 1982, they have been unable to obtain financing to improve their housing situations because of a descendancy restriction in their leases and because their subdivision has not been improved.

Your Committee finds that the enactment of this measure will serve to lay the groundwork to assist the residents in upgrading or rebuilding their homes. With this exemption in place, OHA and other organizations can follow-up in assisting residents in conducting self-help housing projects similar to the one which was conducted in Miloli'i on the Big Island. OHA's Board of Trustees has approved a funding request of \$112,500 from OHA's Housing Division to manage such a self-help housing project for fifteen families at Maunalaha. This project is scheduled for FY 1996-97.

Your Committee has amended the bill by making a technical, nonsubstantive amendment for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3602, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3602, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Chumbley, Holt).

SCRep. 2410 Housing on H.B. No. 3641

The purpose of this bill, as received by this Committee, is to establish requirements for self-governance of planned community associations in a manner similar to that of condominium property regimes.

Testimony in support of this measure was submitted by the Community Associations Institute.

The Department of Commerce and Consumer Affairs testified in opposition to the exemption from Chapter 443B, Hawaii Revised Statutes (HRS), that would allow a collection agency to collect fees directly from the debtor.

Your Committee is cognizant that there currently is no law which provides a statutory framework specific to homeowner associations in Hawaii, but remains unsure if such a framework is necessary given that most, if not all, associations have governing documents under which they separate. Your Committee, however, does recognize the burdensome expense of attorneys fees incurred in collecting a delinquent assessment.

Therefore, your Committee has amended this measure by deleting the contents of the bill in its entirety and replacing it with language amending section 607-14 Hawaii Revised Statutes, to provide that planned community associations have the right to recover attorneys' fees and costs in collection of delinquent assessments and to enforce governing documents. Without this requirement, owners who pay their assessments regularly could bear the costs of those who do not.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3641, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3641, H.D. 1, S.D. 1, and be referred to the Committee on Consumer Protection.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Taniguchi).

SCRep. 2411 Housing on H.B. No. 3725

The purpose of this bill is to lower the cost of collection of debts by allowing condominium and other homeowner associations to use collection agencies, allowing collection agencies and collection attorneys to recover reasonable collection fees and expenses from the debtor, and allowing the courts to determine the reasonableness of collection agency and attorney fees assessed against the debtor.

Your Committee received testimony in support of this bill from an attorney engaged in representation of condominium associations, a condominium property manager, and Certified Management, a condominium management company. Testimony opposing this bill was received from the Department of Commerce and Consumer Affairs and the Community Associations Institute.

Your Committee believes that Hawaii should be in the forefront of:

- (1) Assisting condominium and other homeowner associations to reduce the incidence and amount of delinquent assessments and maintenance fees;
- (2) Reducing the cost of collection of delinquent assessments and maintenance fees; and
- (3) Making alternative collection procedures feasible for condominium and other homeowner associations.

Your Committee believes that this bill facilitates these goals by allowing the associations to recover, through their collection agencies and attorneys, reasonable attorney and collection agency fees from the debtor. Under present Hawaii law, the collection agency cannot recover its fees from the debtor. In effect, an association using a collection agency would not be able to recover "all costs and expenses" from the debtor, contrary to the express language and intent of section 514A-94(a), Hawaii Revised Statutes (HRS). This bill would resolve this conflict and permit the association to recover collection agency costs and expenses directly from the debtor.

The bill ensures that only a reasonable fee will be assessed against the debtor homeowner. The courts will have ultimate authority to determine the reasonableness of collection fees or attorney's fees. That court determination can be made without regard to other statutes which may have previously limited recovery of such fees to 25 per cent of the unpaid debt.

Therefore, your Committee has amended this bill by authorizing the court to determine of reasonableness of fees and expenses and removing the language which restricted such recovery to 25 per cent of the principal unpaid balance. Second, your Committee has amended this bill to extend the court's authority to include the determination of reasonableness for collections of delinquent assessments and enforcement of any provision of the declaration, by-laws, house rules, the Condominium Property Act, or the rules of the real estate commission. The amendments to this bill do not, nor is it your Committee's intent to exclude, any other provisions of chapter 443B, HRS, which may be applicable. These amendments are solely for the purpose of:

- (1) Providing an association with the flexibility to utilize the services of a licensed Hawaii collection company; and
- (2) Allowing an association to recover reasonable attorney's or collection agency fees and expenses from the debtor for all association collection or enforcement actions.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3725, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3725, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Taniguchi).

SCRep. 2412 Housing on H.B. No. 4031

The purpose of this bill is to enable all counties with a population of more than 500,000 to adopt reasonable standards which permit the construction of two single family dwelling units on any lot where a residential dwelling unit is permitted. Further, in areas designated as an area in substantial need of housing, up to two units may be constructed on lots zoned for single-family residential, rural, or agriculture use, where adequate infrastructure exists, and health and safety standards can be maintained. These units shall be exempt from county zoning, building, and other ordinances, and from all state regulation.

The bill is intended to permit, where the county deems practicable, a homeowner to build an additional home on the homeowner's own lot. The county may condition the construction of the second residential dwelling unit on any other requirement necessary to protect the health and safety of the public, including the county's intent to prevent speculative development.

The bill will automatically be repealed on December 31, 1999.

Testimony in support of this bill was received from the Governor's Special Assistant for Housing, Representative Merwyn S. Jones, the Department of Health (DOH), the Association of Retired Persons, Ka Lahui Hawaii, the Board of Water Supply, and individuals. Testimony opposing the bill was received from the League of Women Voters and individuals.

Your Committee believes that this bill will alleviate the State's impending housing shortage by enabling the counties to modify or exempt the application of zoning or building ordinances for designated areas. The counties will have the flexibility to permit homeowners to build a second unit on their lot.

Your Committee has amended this bill by:

- (1) Making the exemption of the subject dwelling units from county zoning, building, and other ordinances, and state regulation permissive rather than mandatory;
- (2) Requiring each unit meet "any other requirements deemed necessary to protect health and safety" in addition to DOH health and safety standards; and
- (3) Amending the language of Section 4 of this bill to provide that section 46-4(c), Hawaii Revised Statutes, will be reenacted upon the repeal of this Act.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4031, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 4031, H.D. 2, S.D. 1, and be referred to the Committee on Planning, Land and Water Use Management.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Taniguchi).

SCRep. 2413 Judiciary on H.B. No. 3153

The purpose of this bill is to comply with the federal Voting Rights Language Assistance Act of 1992 and to make general changes to the election law regarding nomination papers.

Your Committee finds that this federal act was passed to protect the voting rights of minority groups with limited proficiency in written English. While the Senate and House Clerks offices have assisted in supplying translations into Japanese and Filipino in the 1994 elections, your Committee finds that provision of these services should not be done on an ad hoc basis, but is an important task that should be done by a dedicated nonpartisan agency, specifically the chief election officer.

Your Committee also finds that the current law regarding nominations is not as clear as it should be in order to reduce questions and challenges. Your Committee finds that the proposed revisions to the law will clarify this area and provide guidance to the public and to the candidates.

Your Committee has amended the bill by:

- (1) Specifying that the interpretation of the bill be submitted to the chief election officer no later than ninety days prior to the general election;
- (2) Moving the language requiring that a proposed constitutional amendment be set out in exact form in a bill from section 11-112, Hawaii Revised Statutes, and placing it in a new section, and adding the requirement that the language and the meaning of the proposed amendment be neither misleading nor deceptive;
- (3) Renumbering the sections consecutively and making corresponding amendments; and
- (4) Providing that section 5 shall take effect on July 1, 1997.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3153, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3153, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 7. Noes, none. Excused, none.

SCRep. 2414 Judiciary on H.B. No. 3429

The purpose of this bill is to clarify when unredeemed gift certificates or credit memos can be considered abandoned property.

Specifically, this bill amends section 523A-14, Hawaii Revised Statutes, to:

- (1) Clarify that any gift certificate or credit memo that remains unused for a period of five years after the issuance date shall be deemed abandoned;
- (2) Clarify that any gift certificate or credit memo that contains an expiration date of less than five years shall be deemed abandoned on the date of its expiration;
- (3) Exempt gift certificates and credit memos without expiration dates from the requirements of the section; and
- (4) Require the issuer of an abandoned gift certificate or credit memo to remit all abandoned amounts to the Department of Budget and Finance for disposition.

Your Committee finds that provisions of the unclaimed property law relating to gift certificates and credit memos are confusing, unenforceable, and unfair to businesses that issue these vouchers. Further, the approach taken by this measure will not resolve the problem. To avoid the further confusion that this bill would cause, your Committee has amended this bill to prohibit property declared abandoned under section 523A-14, Hawaii Revised Statutes, from escheating to the State. Your Committee finds that this amendment will address the basic issue of fairness to the operations that issue these certificates.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3429, H.D. 1, as amended herein, and recommends that it pass Second reading in the form attached hereto as H.B. No. 3429, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 7. Noes, none. Excused, none.

SCRep. 2415 Agriculture, Labor, and Employment on H.B. No. 3616

The purpose of this bill is to make permanent the State's pilot leave sharing program.

Your Committee finds that Act 157, Session Laws of Hawaii 1993 (Act 157), established a pilot leave sharing program that allowed qualifying public employees to obtain leave credits through the leave credit donations of other public employees. As a pilot program, Act 157 is scheduled to sunset on June 30, 1996.

Your Committee believes that the leave sharing program is worthwhile and should be made permanent.

Your Committee has amended the bill by making technical amendments to conform the bill with recommended drafting procedures.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3616, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3616, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Anderson).

SCRep. 2416 Agriculture, Labor, and Employment on H.B. No. 4008

The purpose of this bill is to amend the terms and eligibility requirements for Class E agricultural loans issued by the Department of Agriculture.

Specifically, the bill:

- (1) Extends the term of class E agricultural loans from three years to a term not to exceed seven years; and
- (2) Decreases the percentage of board of directors and shareholders that must meet eligibility requirements from seventy-five percent to a simple majority.

Your Committee finds that many cooperatives and corporations, for whom Class E loans are intended, are unable to borrow the maximum loan amount of \$300,000 because of the short time in which the loans must be repaid. Extending the maximum term of the loan to seven years will provide the Department of Agriculture with the necessary flexibility to assist borrowers without creating hardship for them.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4008, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Anderson).

SCRep. 2417 (Joint) Education and Agriculture, Labor, and Employment on H.B. No. 2514

The purpose of this bill is to transfer the school-to-work transition program and employees from the Department of Labor and Industrial Relations to the Department of Education.

Your Committees have amended the bill by:

- (1) Deleting language specifying chapter 301, Hawaii Revised Statutes, as the chapter in which to add the new part relating to transition to work system;
- (2) Deleting the option that a person may retain the person's civil service exemption;
- (3) Deleting reference to the pay rate of employees affected by this Act;
- (4) Deleting the requirement that any officer or employee converted under this section must have worked in a position for not less than six months; and
- (5) Making nonsubstantive, technical amendments for clarity and style.

Your Committees find that the school-to-work transition programs were established to provide services to high school students as they move from the classroom to the work place or to higher education programs. Your Committee further finds that since these programs are site-based within the public schools, it is more feasible for them to be placed within the Department of Education for administrative purposes.

As affirmed by the records of votes of the members of your Committees on Education and Agriculture, Labor, and Employment that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2514, H.D. 3, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2514, H.D. 3, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.
Ayes, 8. Noes, none. Excused, 2 (Bunda, Solomon).

SCRep. 2418 Education on H.B. No. 3135

The purposes of this bill are to:

- (1) Extend the appropriation period from the State Educational Facilities Improvement Special Fund to not more than four years for design-build contracts;
- (2) Require that a portion of the moneys appropriated by the legislature for deposit into the State Educational Facilities Special Fund shall be committed to satisfy the financial terms of design-build contracts;
- (3) Specify that any unencumbered moneys from the legislative appropriation at the end of the four-year period shall lapse;
- (4) Clarify that general obligation bond fund appropriations will not lapse if the legislature determines the appropriation is necessary to qualify for federal aid financing or reimbursement; and
- (5) Clarify that general obligation bond fund authorizations shall be reduced by an amount equal to any amount lapsed.

Your Committee received testimony in support of the bill from the Department of Education.

Your Committee has amended the bill by deleting the provisions relating to the non-lapsing of general obligation bond fund appropriations tied to federal aid and the reduction of general obligation bond authorizations by any amount lapsed. Your Committee agreed with the Department of Budget and Finance that those provisions were repetitive of language contained in Article VII, Section 11, of the Hawaii State Constitution.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3135, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3135, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Bunda).

SCRep. 2419 Education on H.B. No. 3138

The purpose of this bill, as received by your Committee, is to establish the school entrepreneurship special fund into which shall be deposited revenues received from public school-based business ventures.

Your Committee finds that the public schools can serve as a training ground for certain teaching staff and students working together to develop services or products for sale outside the school community. Your Committee further finds that revenues from the sales of such services or products should be returned to the schools as part of the process of learning about business development and to support these innovative programs.

Upon further consideration, your Committee has amended this bill by deleting its contents and inserting therefor provisions that:

- (1) Exempt procurements of less than \$5,000 by a public school from the Hawaii Public Procurement Code, and prohibiting the practice of parceling;
- (2) Establish a zero tolerance policy of possession of illicit drugs and alcohol in public schools;
- (3) Allow the superintendent to exclude from school any student found in possession of a dangerous weapon on school grounds;
- (4) Specify that all net profits arising from student-run enterprises shall be used by the school for the purchase of equipment and material, not otherwise provided for in the school budget, that will be of general benefit to the pupils; or may be distributed among the pupils actually engaged in the enterprises, unless otherwise provided by law;
- (5) Define the term "student-run enterprise" to mean any undertaking whose primary purpose is to educate students through direct student participation in any type of business activity, including, but not limited to, operations, management, control, research, marketing, finance, or sales;
- (6) Establish within the department of education a training program for school security attendants and makes an appropriation therefor;
- (7) Direct the revisor of statutes to conform the provisions contained in this measure with any recodification of the education statutes;
- (8) Add a severability clause; and
- (9) Change the effective date to upon approval, except for Section 7 which is July 1, 1996.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3138, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3138, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Bunda).

SCRep. 2420 (Joint) Education and Judiciary on H.B. No. 3345

The purpose of this bill, as received by your Committees, is to transfer the Hawaii Education Council (Council) from the Department of the Attorney General to the Department of Education (DOE).

Your Committees find that the Department of the Attorney General testified in support of the bill, stating that the transfer of the Council to the DOE would place it in the department that shares similar responsibilities. However, your Committees further note that the DOE, while having no objections to the bill, suggested that the continued need for the Council be examined in view of the State's fiscal problems.

Upon further consideration, your Committees have amended this bill by deleting its contents and substituting therefor provisions that repeal the Hawaii Education Council and the funds allocated to the Council.

As affirmed by the records of votes of the members of your Committees on Education and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3345, H.D. 2, as amended herein,

and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3345, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.
Ayes, 8. Noes, none. Excused, 1 (Bunda).

SCRep. 2421 (Joint) Education and Agriculture, Labor, and Employment on H.B. No. 3432

The purpose of this bill is to authorize the Department of Education to continue to certify educational officers and temporary department personnel consistent with existing policy and procedures.

Your Committees find that Act 240, Session Laws of Hawaii 1995, established the Hawaii Teacher Standards Board as an independent body for the purposes of setting standards for licensing of teachers paid under the salary schedule contained in the unit 5 collective bargaining agreement. Your Committees further find that the intent of Act 240 is to apply these standards only to the unit 5 teachers and, therefore, the department retains authority to certify educational officers and other temporary teaching personnel. Your Committees further note that the intent of this bill is to allow the department to continue existing policies and procedures related to the certification of educational officers and temporary teaching personnel, and it should not be construed to allow the department to impose new or additional certification requirements.

Your Committees have amended this bill by adding a provision that directs the revisor of statutes to conform the revisions contained in this measure with any recodification of the education statutes, and by making technical, nonsubstantive changes for purposes of clarity and style.

As affirmed by the records of votes of the members of your Committees on Education and Agriculture, Labor, and Employment that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3432, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3432, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.
Ayes, 8. Noes, none. Excused, 2 (Bunda, Anderson).

SCRep. 2422 Education on H.B. No. 4127

The purpose of this bill is to require students to complete a course in cardiopulmonary resuscitation (CPR) as a prerequisite for high school graduation. This bill also establishes a five-year CPR advisory task force to provide expertise and advice to the Department of Education on the implementation and execution of the CPR training program. This bill also appropriates funds for the purchase of necessary equipment for the program.

Your Committee believes that establishment of a CPR training program is premature at this time. Therefore, your Committee amended this bill by: deleting the provisions which established the CPR training program; removing the appropriation for program equipment; moving the establishment of the CPR advisory task force into session law; shortening the term of existence of the task force from five years to less than one year; and making the Act effective upon approval.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4127, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 4127, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Bunda).

SCRep. 2423 (Majority) Judiciary on H.B. No. 2599

The purpose of this bill is to consolidate within the Office of Youth Services the purchase of programs and services for youth at risk.

In particular, this bill requires the Office of Youth Services, with the cooperation of the Department of Health and the Judiciary, to coordinate the provision of prevention, intervention, treatment, assistance, monitoring, counseling, safety, self-care, information, and other services and programs for youth at risk through purchases of services pursuant to chapter 42D, Hawaii Revised Statutes.

Your Committee agrees with the intent of this bill, which assists in minimizing duplicative efforts and helps to assure that the health and well-being of Hawaii's youth at risk are addressed. Coordinating services and programs through purchases of service will maximize resources and facilitate the development of a comprehensive array of services for supporting youth health and development.

Your Committee finds, however, that the numerous and growing problems of youth at risk in the State are such as to require additional, more comprehensive measures. Your Committee finds that nearly all youth in Hawaii are potentially at risk. Data has shown that adolescents are the only age group within the last two decades in which mortality and morbidity rates have not decreased. Moreover, these rates are attributable to preventable risk-taking behaviors.

Your Committee finds that it is necessary to further consolidate the responsibilities of the Office of Youth Services with respect to the prevention of delinquency, the rehabilitation of youth at risk, and the coordination of the delivery of necessary services, in order to ensure accountability and provide Hawaii's youth with a fair and full opportunity to reach

their full potential and become law-abiding citizens of our community. Accordingly, upon further consideration, your Committee has amended this bill to accomplish the following:

- (1) Require the Office of Youth Services to be responsible for the prevention and control of juvenile delinquency and the rehabilitation of youth at risk;
- (2) Require the Office of Youth Services to consolidate, as well as coordinate, the purchase of programs and services for youth at risk;
- (3) Establish a Juvenile Justice Management Commission to review the activities of the Office and the Family Court regarding the treatment and rehabilitation of youth committed to the custody or supervision of the Office. The Commission is to be comprised of representatives from the Office of Youth Services, the Court, the Legislature, the Honolulu Prosecuting Attorney, the Public Defender, the Department of Human Services, the Department of Health, the Department of Education, and the Honolulu Police Department;
- (4) Establish the youth services programs revolving fund to enable the Office of Youth Services to seek and receive contributions;
- (5) Require the Office of Youth Services to be the juvenile compact administrator;
- (6) Transfer the rights, powers, functions, and duties of the Family Court relating to the detention, custody, or treatment of minors subsequent to their adjudication by the Family Court to the Office of Youth Services effective July 1, 1998;
- (7) Transfer the operation of the detention home and shelter facilities, staff, and employees to the Office of Youth Services effective July 1, 1996;
- (8) Transfer \$2,099,687 in purchase of services funds from the Family Court to the Office of Youth Services. These funds represent the supplemental budget requests of the Judiciary. This transfer is in line with the policy of the courts to streamline its present operation and with the intent of the bill to centralize the purchases of youth services. The purpose of this fund transfer is for the purchase of services for youth at risk and those recommended by the Family Court for informal adjustment; and
- (9) Make technical, nonsubstantive amendments for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2599, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2599, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, 1 (Matsuura). Excused, 1 (Tam).

SCRep. 2424 Higher Education, Culture, and Arts on H.B. No. 3583

The purpose of this bill is to clarify the authority of the Board of Regents to grant, modify, or suspend tuition waivers, and waivers of nonresidential tuition and fee differentials.

Your Committee has received testimony in favor of this bill from the University of Hawaii. The amendments to section 304-4, HRS, would allow the board of regents to use its discretion to determine whether or not to continue, decrease, or increase tuition waivers and waivers of the nonresident tuition differential.

Your Committee has amended this bill by:

- (1) Adding and amending section 304-7.5, Hawaii Revised Statutes (HRS), to specify use of a base figure of eighty-five percent of the 1994-1995 fiscal year allocation to the University for the 1997-1998 operating general fund appropriation;
- (2) Adding and amending section 304-8.1, HRS, to:
 - (A) Provide for one hundred percent of the total indirect overhead revenues generated from research and training to be deposited into the research and training revolving fund;
 - (B) Repeal the requirement that \$2,500,000 derived from indirect overhead sources from university-held federal and other research and training contracts and grants be deposited into the research and training fund, and the requirement that the fund balance not exceed \$2,500,000 at any time;
 - (C) Authorize the board of regents to expend eighty-four percent of the revenues in the fund to fund research and training programs, and to establish a separate account within the fund without the \$2,500,000 limit to provide advance funding for federally financed research and training projects; and
 - (D) Mandates that revenues contained in the research and training revolving fund cannot be used as a basis for reducing any University current or future budget requests;
- (3) Adding and amending section 304-16.5, HRS, to allow the board of regents to expend funds from the tuition and fees special fund to generate private donations for deposit into the University of Hawaii Foundation for the

purposes of the University, and to submit a report to the legislature each regular session detailing the use of any funds authorized by the board for fund raising purposes;

- (4) Adding a provision that the board of regents may continue existing programs in the interim until appropriate action is taken to change or discontinue the programs;
- (5) Making the effective date of amendments to section 304-8.1, HRS, July 1, 1997;
- (6) Making the rest of the bill effective upon approval; and
- (7) Adding a severability provision.

Your Committee has amended section 304-7.5, HRS, to specify using a base of eighty-five percent of the 1994-1995 University appropriation for making the 1997-1998 appropriation. This amendment was made to address the Department of Budget and Finance's concerns regarding the impact such a base would have on the budgets of other departments and agencies in the 1997-1999 biennium.

Your Committee also finds that currently fifty percent is deposited into the research and training revolving fund, four percent to the discoveries and inventions revolving fund, twelve percent to the UH housing assistance revolving fund, and the remaining thirty-four percent to the State general fund. Thus, the total return from reimbursements on sums expended from the research and training fund has been at sixty-six percent of total indirect cost recovery. The fund provides flexibility to respond to external opportunities, to support professional faculty activities, and to develop research and training programs. The amendment to section 304-8.1, HRS, allowing eighty-four percent of the fund to be used for this purpose will generate more funds for use by the University.

Your Committee believes that with continuing budget cuts, additional revenues are needed to provide total or partial funding for a telecommunications link for research and other campus components. Your Committee supports the use of University-generated overhead funds to provide a high-speed internet connection as proposed in S.B. No. 2374. However, your Committee prefers not to specifically commit the University-generated funds to this purpose by statute. Your Committee believes that the University's firm commitment as stated at the hearing, to provide a forty-five million bit-per-second link for use by the University and the State of Hawaii is sufficient assurance for the intended use of these funds.

Your Committee also finds that because of recent budget cuts, the University must raise additional nontax funds to meet its needs. The University will be more dependent on the receipt of funds and other property from non-governmental sources to enable it to provide educational programs and to maintain its research and community service efforts. In the past, the University has relied primarily on the efforts of the University of Hawaii Foundation, a nonprofit corporation, to solicit private contributions, gifts and bequests of money and property to support university programs and your Committee intends to encourage this activity with its amendments to section 304-16.5, HRS.

As affirmed by the record of votes of the members of your Committee on Higher Education, Culture, and Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3583, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3583, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Ikeda, Taniguchi).

SCRep. 2425 Higher Education, Culture, and Arts on H.B. No. 3954

The purpose of this bill is to ensure the continued operations of the Center for Labor Education and Research (Center) by requiring the Center to offer credit and non-credit labor studies courses and labor studies programs via distance education, and authorizing the Director of the Center to limit the Center's contracts for publication and stationery work to unionized contractors exempt from chapters 42D, 103, and 103D, Hawaii Revised Statutes.

Your Committee received testimony in support from the University of Hawaii, the Labor Education Advisory Council, numerous unions including Plasters' and Cement Masons' International Association, ILWU, SHOPO, UFCW, HSTA, AFSCME, Pacific Resource Partnership, and an interested citizen.

Your Committee finds that CLEAR was established twenty years ago, in recognition of the importance of labor education in one of the most unionized states in the nation. Your Committee further finds that while CLEAR continues to provide outreach education programs, its role should be expanded to provide credit courses to be integrated into degree-programs similar to other CLEAR programs at universities across the country.

Your Committee has amended this bill by amending the effective date and by making technical, nonsubstantive changes for the purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Higher Education, Culture, and Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3954, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3954, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Fernandes Salling, Ikeda).

SCRep. 2426 Higher Education, Culture, and Arts on H.B. No. 4063

The purpose of this bill is to revitalize the Hawaiian language by establishing a Hawaiian language college at the University of Hawaii at Hilo campus.

Your Committee received testimony in support of the bill from the National Indian Policy Center, Ke Kula Ni'ihau o Kekaha, and other various individuals.

Your Committee has amended the bill by rewriting the purpose section for clarity, and replacing the contents of the bill with provisions that establish a Hawaiian language task force whose goal is to make recommendations and devise a plan for the creation of a Hawaiian language college for submittal to the Office of Hawaiian Affairs and the legislature.

Your Committee finds that the State Constitution recognizes the Hawaiian language as an official state language. Testimony from the Office of Hawaiian Affairs called for a long range plan for the survival and perpetuation needed for the preservation of the Hawaiian language. Your Committee finds that the Office of Hawaiian Affairs is willing to discuss the possibility of providing initial funding of positions at the University of Hawaii at Hilo campus for a Hawaiian language college.

Your Committee received testimony from the University of Hawaii supporting the intent to preserve the Hawaiian language and culture but noting it is unable to financially support the creation of a new college at this time.

Your Committee finds that over the years the Legislature has been granting increasing autonomy to the University of Hawaii. Therefore, your Committee believes it would be inappropriate for the Legislature to establish colleges within the university. Such a decision should be left to the Board of Regents. Accordingly, your Committee believes requesting the University of Hawaii to convene a task force to determine the feasibility of establishing a Hawaiian language college is appropriate. Your Committee urges the task force to consider in its deliberations modeling the Hawaiian language college after the federal native American Indian colleges rather than traditional institutions of higher learning in order to be eligible for federal funding under the Native American Language Act of 1990.

As affirmed by the record of votes of the members of your Committee on Higher Education, Culture, and Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4063, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 4063, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Fernandes Salling, Ikeda).

SCRep. 2427 Agriculture, Labor, and Employment on H.B. No. 2452

The purpose of this bill is to establish a new system by which current and retired public employees receive health benefits.

Specifically, the bill repeals, on June 30, 1999, Chapter 87, Hawaii Revised Statutes, relating to the Public Employees Health Fund, and establishes a joint public employer-public employee committee to develop an employer-union trust concept to provide health benefits for current and retired public employees.

Although your Committee believes that employer-union trusts could provide better health benefits for its beneficiaries, it is concerned over the manner in which it is being approached.

In light of this concern, your Committee has amended the bill by:

- (1) Adding language that includes representatives from retired public employee organizations and the Public Employees Health Fund Board on the employer-union trust concept committee;
- (2) Making the repeal of Chapter 87, Hawaii Revised Statutes, contingent upon the enactment of legislation that replaces the need for the Public Employees Health Fund; and
- (3) Inserting language that prevents the Public Employees Health Fund from expending any funds to upgrade its existing computer system after April 1, 1996.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2452, H.D. 3, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2452, H.D. 3, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Anderson).

SCRep. 2428 (Joint) Agriculture, Labor, and Employment and Transportation and Government Affairs on H.B. No. 3518

The purpose of this bill is to exempt grants and subsidies for employment, education, and training services of the Department of Labor and Industrial Relations (DLIR) from the procurement provisions under the Grants, Subsidies, and Purchases of Service law (Chapter 42D, Hawaii Revised Statutes).

Your Committees find that although such grants and subsidies are to be exempt from Chapter 42D, all other disbursements made by the DLIR are to be in accordance with the Hawaii Public Procurement Code (Chapter 103D, Hawaii Revised Statutes).

Your Committees have amended the bill by deleting the proposed extension of the employment and training funds assessment made on employers to December 31, 2000.

Your Committees believe that although the program funded by this assessment is worthwhile, prolonging the assessment may prove to be too onerous on the very group the program is supposed to benefit.

As affirmed by the records of votes of the members of your Committees on Agriculture, Labor, and Employment and Transportation and Government Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3518, H.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3518, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.
Ayes, 6. Noes, none. Excused, 1 (Anderson).

SCRep. 2429 Agriculture, Labor, and Employment on H.B. No. 3800

The purpose of this bill is to appropriate an unspecified amount for an orientation program for newly-arrived immigrants to Hawaii to be administered by the Office of Community Services.

Your Committee finds that immigration has been responsible for the creation of Hawaii's uniquely rich multicultural society. However, upon arrival to Hawaii many immigrants experience substantial difficulties due to vastly different ways of life between that of their homelands and that of Hawaii. These difficulties can be minimized and the adaptation of immigrants to a new way of life can be eased by an orientation program.

The Office of Community Services is responsible for, among other things:

- (1) Establishing statewide goals and objectives relating to immigrants;
- (2) Coordinating programs for immigrants; and
- (3) Publishing information booklets that list all available services to immigrants.

Your Committee has amended the bill by inserting provisions that transfer the coordinator for services to Filipino veterans of World War II from the Department of Defense's Office of Veterans Services to the Department of Labor and Industrial Relations' Office of Community Services.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3800, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3800, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Solomon, Anderson).

SCRep. 2430 Agriculture, Labor, and Employment on H.B. No. 3881

The purpose of this bill is to support agricultural research and development by:

- (1) Changing the composition of the commodities that are to receive agricultural research and development funds and the amounts of the appropriations in section 86 of the General Appropriations Act of 1995, for the research and development of the following agricultural projects and programs: orchid research, cut-flower research, taro research, protea research, macadamia research, coffee research, swine research, management of the sweet potato whitefly, development of the virus resistant tomato, low input sustainable agriculture, banana research, papaya research, cattle research, anthurium research, the Plant Alien Pest Program, pesticide programs, the Exotic Pest Insect Committee, and pineapple research;
- (2) Requiring the Department of Agriculture (DOA) to support efforts to seek and obtain grants and other funds for agricultural research and development;
- (3) Authorizing the DOA to require that any funds made available under the bill be matched by private funds;
- (4) Requiring the Chairperson of the Board of Agriculture to:
 - (A) Expedite all projects of the former Governor's Agriculture Coordinating Committee (GACC) especially emergency actions; and
 - (B) Submit a status report to the Legislature before the 1997 Regular Session on the efforts taken pursuant to this bill;
- (5) Requiring the GACC to submit to the Legislature prior to the 1997 Regular Session:
 - (A) An itemized report on the progress being made with each specific commodity that is funded for research;

- (B) The projected funding of the commodity; and
 - (C) The justification for recommended funding in future years;
- and

(6) Authorizing the GACC to transfer funds between appropriations as listed in section 2 of the bill.

Your Committee understands that agricultural research and development are critical to maintain and improve crop yields and facilitate the start of new agricultural ventures.

Your Committee notes that in prior years, the GACC had between \$2,000,000 to \$3,000,000 for agricultural research, of which the Legislature appropriated up to \$1,000,000. The remainder over \$1,000,000 was used to assist the broader interests and needs of the agricultural community.

In this time of fiscal austerity, your Committee believes that it is important to address the broader commodity needs of agriculture. Last year, as in the past, much of the State Budget contained provisions for expending funds relating to agriculture. These provisions were limited to certain commodities, which left very little funds for the myriad of agricultural commodities that needed assistance.

It is imperative for the well-being of Hawaii's agricultural community at-large that the Legislature take a broad view of the industry's needs and give expending agencies flexibility to expend funds among various agricultural commodity needs, with direction from the Legislature.

Your Committee has amended this bill by:

- (1) Including appropriations for the Hawaii Agriculture Research Center, Melastome biological control research, and pineapple pest control research in the bill;
- (2) Deleting the separate appropriation line item for pesticide programs;
- (3) Inserting dollar amounts for certain programs; and
- (4) Making technical amendments to conform the bill to recommended drafting procedures.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3881, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3881, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Anderson).

SCRep. 2431 Agriculture, Labor, and Employment on H.B. No. 2642

The purpose of this bill is to clarify the intent of Act 217, Session Laws of Hawaii 1995 (Act 217), which required that employees, hired after July 1, 1996, and with fewer than twenty-five years of service, make a partial contribution to the Public Employees' Health Fund (Fund) upon their retirement.

Your Committee finds that Act 217 provided that an employee-beneficiary who "had twenty-five or more years of credited service" would not be required to make a contribution to the Fund, which technically permitted employees with twenty-five years or more of service to obtain Fund benefits at no cost without retiring. Your Committee notes that this was not the intent of Act 217, and thus this bill clarifies that employees "who retired with twenty-five years or more years of credited service" are the targeted beneficiaries. Your Committee further finds that Act 217 also did not specify contribution amounts for employees hired on July 1, 1996, and this measure corrects this oversight.

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

- (1) Inserting a provision to clarify that the changes to the contributions shall not apply to employees hired prior to July 1, 1996, who separate from state or county employment after June 30, 1996, and are rehired within seven days by the State or a county;
- (2) Inserting a provision to clarify that if an employee leaves state or county employment and subsequently returns after June 30, 1996, when the employee retires, the years of service shall be computed in the same manner set forth in Chapter 88, Hawaii Revised Statutes;
- (3) Inserting the word "retired" before "employee" in subsection (c) to clarify that this section applies to the calculation of contributions by retired employees; and
- (4) Inserting a section that requires the Fund to return to the State and counties, any rate credit or reimbursement received from an insurer.

It is your Committee's intent to ensure that rate credits and reimbursements identified by insurers are returned to the State and counties so that:

- (1) The State and counties may make use of the moneys as necessary, given the current fiscal crisis; and
- (2) To eliminate any possibility that the application of rate credits or reimbursements to future costs of the Fund would mask any increase in actual costs.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2642, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2642, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Anderson).

SCRep. 2432 Agriculture, Labor, and Employment on H.B. No. 3341

The purpose of this bill is to minimize salary overpayments by authorizing the Governor to convert the payroll payment basis for state employees from the current predicted payroll to after-the-fact payroll.

Converting to an after-the-fact payroll system, according to the Department of Budget and Finance, would result in a one-time savings to the State of approximately \$47 million.

Although well aware of the State's current financial crisis, your Committee has serious concerns over legislating what it deems to be an issue more appropriately addressed through collective bargaining. However, realizing the necessity to keep many financial alternatives alive so that a suitable budgetary solution may be crafted by this Legislature, your Committee believes that the bill should move forward.

Your Committee has amended the bill by adding four new sections that:

- (1) Require the Department of Human Resources Development to establish a program to assist public employees who experience financial hardship due to the conversion from a predicted payroll to an after-the-fact payroll system;
- (2) Prohibit any layoff or termination of public employees for other than disciplinary reasons during the fiscal year in which the conversion is to occur;
- (3) Protect a public employee's retirement calculation from being affected by the conversion; and
- (4) Establish a June 30, 1997, effective date.

Your Committee has also amended the bill by requiring the Governor to consult with the exclusive representatives of affected public employees prior to initiating any payroll conversion.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3341, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3341, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Solomon, Anderson).

SCRep. 2433 Agriculture, Labor, and Employment on H.B. No. 3498

The purpose of this bill is to ensure the recruitment of highly skilled and experienced individuals at the Hawaii State Hospital by allowing the Director of Health to appoint an administrator, three associate hospital administrators, a risk manager, a patients' rights advisor, and a facilities plant engineer, without regard to the standard civil service procedures.

Your Committee feels that this bill will provide the flexibility necessary for the Department of Health to meet the State's responsibilities under its settlement agreement with the U.S. Department of Justice and will move the Hospital toward its goal of becoming accredited.

Your Committee has amended the bill by placing salary caps on each position.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3498, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3498, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Solomon, Anderson).

SCRep. 2434 Agriculture, Labor, and Employment on H.B. No. 3611

The purpose of this bill is to provide that all members of the employees' retirement system (ERS) that are hired after June 30, 1996, who have ten years of credited service in the system and who rendered honorable active military service in the armed forces of the United States, are entitled to a credit for such military service up to four years; and all members hired before June 30, 1996, are entitled to the credit for military service after eight years in the ERS.

Testimony was submitted by the Department of Budget and Finance, the Administrator for ERS, and City and County of Honolulu Department of Personnel. Your Committee was informed through the testimony of the apparent inequity under the present law where ERS members with two years of credited military service can retire after only eight years of ERS service, while a noncontributory member without military service credit cannot retire until after ten years of ERS service. It would seem more equitable to require all ERS members to first vest before being given any increased benefits through credit for past service.

Your Committee has amended this bill by deleting its provisions and replacing them with the original provisions of H.B. No. 3611.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3611, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3611, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Solomon, Anderson).

SCRep. 2435 Economic Development on H.B. No. 3203

The purpose of this bill is to appropriate \$2 for fiscal year 1996-1997 to fund projects of the Center for a Sustainable Future to be located on Coconut Island (Moku O Lo'e).

Your Committee finds that the Center for a Sustainable Future (Center) is a private, nonprofit corporation affiliated with the School of Ocean and Earth Science and Technology at the University of Hawaii, Manoa. The Center, which will be called the "Spark M. Matsunaga Renewable Energy and Ocean Technology Center", would bring together world-class scientists, engineers, economists, corporate and industry representatives, and policymakers to conduct applied research relating to sustainable development.

Two examples of projects supported by the Center would be the Coral Reef Project and the Kaneohe Bay Project. The Coral Reef Project combines scientists from Hawaii Institute of Marine Biology and engineers from local corporations to provide a vastly more efficient means for mapping the health of coral reefs around the Pacific. The Kaneohe Bay Project is intended to provide the scientific base for language development planning for the Kaneohe Bay Watershed consistent with the best interests of preserving Kaneohe Bay.

The Edwin W. Pauley Foundation of Los Angeles has provided \$9.6 million for the purchase of a private portion of Coconut Island and the construction of the Pauley-Pagen Marine Laboratory, which will place the University of Hawaii's Institute of Marine Biology in the top of ranks of marine laboratories around the world. This project will have a total workforce income associated with construction of \$5 million, all from private funding.

The Pauley Foundation is willing to contribute \$1 million to cover operating expenses of the Center if the State appropriates an equal amount of CIP funds for the Center.

Your Committee believes that this measure will encourage greater efforts to preserve Hawaii's fragile natural resources from the demands of an evergrowing population, and will promote much needed alternative forms of economic productivity.

Your Committee has amended this measure by:

- (1) Changing the amount of the appropriation from \$2 to \$1,000,000, and providing that the funds shall be appropriated from the general obligation bond fund of the State of Hawaii;
- (2) Clarifying that the projects of the Center to be funded by this appropriation shall include the design and construction of a "Spark M. Matsunaga Renewable Energy and Ocean Technology Center";
- (3) Adding community and native Hawaiian groups to the list of potential research participants;
- (4) Deleting the requirement that funds appropriated from the State be matched by private sources;
- (5) Providing that the appropriation made in this bill shall not lapse at the end of the fiscal biennium for which the appropriation is made, but that all appropriations unencumbered as of June 30, 1999, shall lapse as of that date;
- (6) Clarifying that the funds appropriated shall be expended by the Research Corporation of the University of Hawaii; and
- (7) Making several technical, nonsubstantive changes for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Economic Development that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3203, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3203, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Ige).

SCRep. 2436 Economic Development on H.B. No. 4117

The purpose of this bill is to simplify the implementation and improve the effectiveness of the current enterprise zone law by, among other things, clarifying the eligibility requirements for "qualified businesses".

Your Committee supports the intent of this measure, but believes that it should be more specific in its economic targeting.

Your Committee, therefore, has amended this bill by:

- (1) Deleting the amendments to Section 209E-2, Hawaii Revised Statutes, contained in Section 1 of the bill, and substituting the more comprehensive amendments to Section 209E-2 contained in S.B. No. 2707, S.D. 1;
- (2) Specifying that a business engaged in the roadside sale of agricultural products from a temporary shelter and one engaged in contracting, erecting, constructing, repairing, or improving buildings or structures in counties with populations of less than 100,000 qualify as a "qualified business";
- (3) Providing that certain requirements for qualified businesses do not apply to those producers of agricultural products and contractors located in counties with populations of less than 100,000; and further providing that these contractors are only entitled to the state business tax credit;
- (4) Changing the effective date to July 1, 1996, and providing for certain reenactment and repeals on June 30, 1997, relating to agricultural producers and contractors in counties with populations of less than 100,000; and
- (5) Making several technical, nonsubstantive changes for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Economic Development that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4117, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 4117, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.

Ayes, 3. Noes, none. Excused, 2 (Levin, Matsuura).

SCRep. 2437 Agriculture, Labor, and Employment on H.B. No. 3331

The purpose of this bill is to make the definition of "qualified farmer" under section 155-1(2), Hawaii Revised Statutes (HRS), consistent with the eligibility requirements for obtaining an agricultural loan under section 155-9, HRS.

The bill makes technical amendments to the definition of "qualified farmer" to specify that a qualified farmer is a "person . . . who is presently devoting, has recently devoted, or intends to devote most of the person's time or who derives a major portion of the person's net cash income from direct participation in farming in its broadest sense." The present definition only requires that the person devote at least one-third of the person's time or derive at least one-third of the person's net income from farming.

Your Committee finds that sections 155-1(2) and 155-9, HRS, as they currently exist, are inconsistent in defining who is a qualified farmer. The inconsistency creates confusion for prospective borrowers who meet the current definition of a "qualified farmer" but who still would not be able to obtain an agricultural loan under the eligibility requirement of section 155-9, HRS. This bill would remedy the situation.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3331 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 1 (Anderson).

SCRep. 2438 Ecology and Environmental Protection on S.C.R. No. 92

The purpose of this Concurrent Resolution is to urge the United States Congress to reauthorize and strengthen the Safe Drinking Water Act (Act).

The Act provides for testing standards and reporting requirements for over eighty water contaminants in the interest of protecting the public health. Your Committee finds that the Act has not been reauthorized since 1986 and has not been taken up in the present Congress.

Your Committee believes that the Act should be amended to provide for additional testing and reporting, and to provide for increased research efforts on the health effects of various contaminants to provide the U.S. Environmental Protection Agency with the data it needs to promulgate science-based regulations to remedy the increasing water contamination problem.

As affirmed by the record of votes of the members of your Committee on Ecology and Environmental Protection that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 92 and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.

Ayes, 3. Noes, none. Excused, 2 (Aki, Chumbley}.

SCRep. 2439 Housing on S.R. No. 54

The purpose of this Resolution is to encourage condominium associations to resolve all their disputes with their condominium managing agents through arbitration.

Your Committee received testimony in support of this Resolution from the Hawaii Real Estate Commission, and the Community Associations Institute. The Hawaii Independent Condominium & Cooperative Owners opposed this Resolution on the basis that the arbitration is non-binding and is often more costly and time consuming than litigation, since any disgruntled party to the arbitration can seek judicial intervention through a trial de novo. This comes as a surprise to many people who fail to appreciate the significance of a "non-binding" arbitration.

Your Committee believes that the community should be informed of and encouraged to use the arbitration process. However, changes to the non-binding nature of the arbitration process may benefit the community. Accordingly, your Committee has amended this Resolution to:

- (1) Request the Legislative Reference Bureau (LRB), in consultation with the community, to study whether non-binding arbitration is effective, and, if effective, which court should have jurisdiction for review by trial de novo; and to study whether arbitration under Section 514A-121, Hawaii Revised Statutes (HRS), should be binding;
- (2) Encourage the Real Estate Commission to adopt rules to require notice to parties that arbitration under Section 514A-121, HRS, is non-binding and subject to judicial review through trial de novo, and of the meaning of "trial de novo";
- (3) Provide that certified copies of this Resolution be transmitted to the LRB and to the interested parties who are requested to assist the LRB;
- (4) Amend the title of this Resolution to more correctly indicate its expanded purpose; and
- (5) Make technical, nonsubstantive changes for clarity and style.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.R. No. 54, as amended herein, and recommends that it be referred to the Committee on Judiciary in the form attached hereto as S.R. No. 54, S.D. 1.

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 1 (Taniguchi).

SCRep. 2440 Housing on S.C.R. No. 77

The purpose of this Concurrent Resolution is to encourage condominium associations to resolve all their disputes with their condominium managing agents through arbitration.

Your Committee received testimony in support of this Concurrent Resolution from the Hawaii Real Estate Commission, and the Community Associations Institute. The Hawaii Independent Condominium & Cooperative Owners opposed this Concurrent Resolution on the basis that the arbitration is non-binding and is often more costly and time consuming than litigation, since any disgruntled party to the arbitration can seek judicial intervention through a trial de novo. This comes as a surprise to many people who fail to appreciate the significance of a "non-binding" arbitration.

Your Committee believes that the community should be informed of and encouraged to use the arbitration process. However, changes to the non-binding nature of the arbitration process may benefit the community. Accordingly, your Committee has amended this Concurrent Resolution to:

- (1) Request the Legislative Reference Bureau (LRB), in consultation with the community, to study whether non-binding arbitration is effective, and, if effective, which court should have jurisdiction for review by trial de novo; and to study whether arbitration under Section 514A-121, Hawaii Revised Statutes (HRS), should be binding;
- (2) Encourage the Real Estate Commission to adopt rules to require notice to parties that arbitration under Section 514A-121, HRS, is non-binding and subject to judicial review through trial de novo, and of the meaning of "trial de novo";
- (3) Provide that certified copies of this Concurrent Resolution be transmitted to the LRB and to the interested parties who are requested to assist the LRB;
- (4) Amend the title of this Concurrent Resolution to more correctly indicate its expanded purpose; and
- (5) Make technical, nonsubstantive changes for clarity and style.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.C.R. No. 77, as amended herein, and recommends that it be referred to the Committee on Judiciary in the form attached hereto as S.C.R. No. 77, S.D. 1.

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 1 (Taniguchi).

SCRep. 2441 Planning, Land and Water Use Management on S.C.R. No. 16

The purpose of this Concurrent Resolution is to authorize the Department of Land and Natural Resources to lease certain submerged lands at Manele Bay to Lanai Company for marina purposes.

Your Committee finds that currently there are only limited improvements at the Manele Small Boat Harbor, (for example, no lights, telephone, or improved water system) which could lead to hazardous situations in emergency situations. As such, the construction of a safe and functional harbor area at the Manele Small Boat Harbor would be a great benefit to the State.

According to testimony received from the Department of Land and Natural Resources, Lanai Company has presented a proposal which would provide needed improvements to the Manele Small Boat Harbor, as well as make available additional boat slips to the public.

Your Committee has amended this Concurrent Resolution to increase the number of boat slips to be constructed by the Lanai Company from eighteen (18) to twenty-four (24) and to insure that a portion of the twenty-four boat slips will be available to those who are on the DLNR waiting list for boat slips at the Manele Small Boat Harbor. More specifically, the amendment requires Lanai Company to dedicate five boat slips to the DLNR. Additionally, the Lanai Company is required to make up to seven additional boat slips available for lease to those on the waiting list although the lease rent for these seven slips will be according to the terms of the leasing program to be developed and adopted by the Lanai Company.

As affirmed by the record of votes of the members of your Committee on Planning, Land and Water Use Management that is attached to this report, your Committee is in accord with the intent and purpose of S.C.R. No. 16, 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. 16, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Holt, Anderson).

SCRep. 2442 Judiciary on S.R. No. 87

The purpose of this resolution is to urge the Judiciary, Department of Accounting and General Services and the Department of Land and Natural Resources to expedite the completion of several capital improvement projects that would provide for court facilities throughout the State.

Specifically, the resolution requests that the Judiciary, Department of Accounting and General Services and the Department of Land and Natural Resources report to the Legislature on the status of these projects prior to the convening of the Regular Session of 1997.

Your Committee believes that the completion of these projects will increase access to the Courts by locating services closer to the community.

Your Committee received testimony in support of this resolution from the Judiciary, the Department of Land and Natural Resources and the Department of Accounting and General Services.

Your Committee heard testimony on the status of the following projects:

- 1) Kauai Judiciary Complex: The contract for acquisition is presently under review by DAGS;
- 2) West Hawaii project (Kona Judiciary Complex): The project is presently in the phase of site selection and land acquisition which is expected to be completed later this year and will need design money in fiscal year 1997;
- 3) Ko'olaupoko District Court: The environmental impact statement is presently under public review and may be open to the public by January 1999.
- 4) Hilo Judiciary Complex: The project is presently in the early phases of site selection and preparation of the environmental impact statement;
- 5) Kapolei: The State is presently engaged in land acquisition negotiations;
- 6) Molokai and Naalehu District Courts: The project is in the design phase; and
- 7) Wahiawa District Court: The Project Development Report is in preparation.

Your Committee is aware that these projects require time-consuming efforts and coordination among the departments and the Judiciary and believes that the collaboration requested in this resolution will be a positive force in the completion of these court facilities.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 87 and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Chumbley, Tam).

SCRep. 2443 Judiciary on S.C.R. No. 115

The purpose of this resolution is to urge the Judiciary, Department of Accounting and General Services and the Department of Land and Natural Resources to expedite the completion of several capital improvement projects that would provide for court facilities throughout the State.

Specifically, the resolution requests that the Judiciary, Department of Accounting and General Services and the Department of Land and Natural Resources report to the Legislature on the status of these projects prior to the convening of the Regular Session of 1997.

Your Committee believes that the completion of these projects will increase access to the Courts by locating services closer to the community.

Your Committee received testimony in support of this resolution from the Judiciary, the Department of Land and Natural Resources and the Department of Accounting and General Services.

Your Committee heard testimony on the status of the following projects:

- 1) Kauai Judiciary Complex: The contract for acquisition is presently under review by DAGS;
- 2) West Hawaii project (Kona Judiciary Complex): The project is presently in the phase of site selection and land acquisition which is expected to be completed later this year and will need design money in fiscal year 1997;
- 3) Ko'olaupoko District Court: The environmental impact statement is presently under public review and may be open to the public by January 1999.
- 4) Hilo Judiciary Complex: The project is presently in the early phases of site selection and preparation of the environmental impact statement;
- 5) Kapolei: The State is presently engaged in land acquisition negotiations;
- 6) Molokai and Naalehu District Courts: The project is in the design phase; and
- 7) Wahiawa District Court: The Project Development Report is in preparation.

Your Committee is aware that these projects require time-consuming efforts and coordination among the departments and the Judiciary and believes that the collaboration requested in this resolution will be a positive force in the completion of these court facilities.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 115 and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Chumbley, Tam).

SCRep. 2444 Human Services on S.R. No. 206

The purpose of this Resolution is to request the Department of Human Services to adopt rules to require Medicaid providers and pharmacists to prescribe and dispense equivalent generic drug products.

Your Committee finds that equivalent generic drug products have been clinically proven to be as safe and effective as brand name drug products and cost much less. Prescribing generic drugs would help to drastically reduce the cost of health care, particularly as to prepaid health plans and the Medicaid program. Therefore, this practice should be required of all Medicaid providers and pharmacists since Medicaid is publicly funded.

Your Committee received supporting testimony from the Department of Human Services, the Hawaii Pharmaceutical Association, and the Drug Product Selection Board of the Department of Commerce and Consumer Affairs.

Your Committee has amended this Resolution by:

- (1) Amending the title to require prescribing of generic or brand name drug products, whichever costs less; and
- (2) Clarifying at page 2, line 11, of the Resolution as received that the requirement for a generic drug would be only if it costs less.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.R. No. 206, as amended herein, and recommends that it be referred to the Committee on Consumer Protection in the form attached hereto as S.R. No. 206, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Aki).

SCRep. 2445 Human Services on S.C.R. No. 256

The purpose of this Concurrent Resolution is to request the Department of Human Services to adopt rules to require Medicaid providers and pharmacists to prescribe and dispense equivalent generic drug products.

Your Committee finds that equivalent generic drug products have been clinically proven to be as safe and effective as brand name drug products and cost much less. Prescribing generic drugs would help to drastically reduce the cost of health care, particularly as to prepaid health plans and the Medicaid program. Therefore, this practice should be required of all Medicaid providers and pharmacists since Medicaid is publicly funded.

Your Committee received supporting testimony from the Department of Human Services, the Hawaii Pharmaceutical Association, and the Drug Product Selection Board of the Department of Commerce and Consumer Affairs.

Your Committee has amended this Concurrent Resolution by:

- (1) Amending the title to require prescribing of generic or brand name drug products, whichever costs less; and
- (2) Clarifying at page 2, line 11, of the Concurrent Resolution as received that the requirement for a generic drug would be only if it costs less.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.C.R. No. 256, as amended herein, and recommends that it be referred to the Committee on Consumer Protection in the form attached hereto as S.C.R. No. 256, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Aki).

SCRep. 2446 Tourism and Recreation on S.C.R. No. 263

The purpose of this Concurrent Resolution is to request that the owners and insurers of Kauai hotels closed as a result of Hurricane Iniki make every effort to reopen the hotels.

Your Committee finds that the devastation from Hurricane Iniki is still felt today by Kauai's residents due to the lagging economy and subsequent business failures. Your Committee further finds that many Kauai residents who were previously employed in the visitor industry and who are choosing to stay on Kauai, are hopeful that the remaining hotel properties will reopen soon so that additional employment opportunities will be made available.

As affirmed by the record of votes of the members of your Committee on Tourism and Recreation that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 263 and recommends that it be referred to the Committee on Transportation and Government Affairs.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Fukunaga, Solomon, Liu).

SCRep. 2447 Transportation and Government Affairs on S.C.R. No. 4

The purpose of this Concurrent Resolution is to request the Governor to develop a comprehensive strategy to restructure state government which will include serious consideration of the recommendations of the Hawaii Congress of Small Businesses and the report of the Interim Commission on Government Redesign.

Testimony was submitted by the Department of Business, Economic Development, and Tourism which indicated that the administration is already attempting to streamline government in many ways that are consistent with the recommendations referred to in the Concurrent Resolution.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 4 and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Taniguchi).

SCRep. 2448 Transportation and Government Affairs on S.C.R. No. 8

The purpose of this Concurrent Resolution is to request the United States Congress to continue to fund the Hawaii National Guard Youth Challenge Program.

Testimony in support of this Concurrent Resolution was submitted by the Judiciary, the State Department of Defense, the Hawaii National Guard Youth Challenge Program, the Drug Demand Reduction Administrator of the Hawaii National Guard, and graduates of the program.

Your Committee learned through the testimony provided that the Hawaii National Guard Youth Challenge Program is a federally funded pilot program for youth-at-risk. The program is divided into two phases. The first phase is a five-month residential phase where eligible youths reside in military facilities and in a quasi-military environment. During this phase the youths receive instruction using an adult competency based academic curriculum. In the second phase each youth works with a volunteer mentor to ensure that career goals initiated in the first phase are achieved. Between September 1994, and February 1996, the program has graduated 180 youths. Of these, 148 have earned high school diplomas, and 32 have returned to high school at the appropriate grade level. Youths who have earned their high school diplomas have gone on to post secondary schools, gotten jobs, or joined the military.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 8 and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Taniguchi).

SCRep. 2449 Transportation and Government Affairs on S.R. No. 89

The purpose of this Resolution is to request that Hawaii's Congressional Delegation encourage all federal agencies to develop a federal procurement process in Hawaii which will allow smaller local bidders to participate in the procurement process.

Favorable testimony was submitted by Gentry Homes, Ltd. Your Committee learned that when federal contracts are awarded to local firms the monetary benefits are internalized and multiplied within Hawaii's economic network. When federal contracts are let to out-of-state firms Hawaii loses those benefits. Often, federal projects are so large that local firms have difficulty in meeting the bonding requirements. This Resolution requests that federal agencies be encouraged to develop a procurement process which will allow smaller local firms to participate in the procurement process.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 89 and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Taniguchi).

SCRep. 2450 Transportation and Government Affairs on S.C.R. No. 117

The purpose of this Concurrent Resolution is to request that Hawaii's Congressional Delegation encourage all federal agencies to develop a federal procurement process in Hawaii which will allow smaller local bidders to participate in the procurement process.

Favorable testimony was submitted by Gentry Homes, Ltd. Your Committee learned that when federal contracts are awarded to local firms the monetary benefits are internalized and multiplied within Hawaii's economic network. When federal contracts are let to out-of-state firms Hawaii loses those benefits. Often, federal projects are so large that local firms have difficulty in meeting the bonding requirements. This Concurrent Resolution requests that federal agencies be encouraged to develop a procurement process which will allow smaller local firms to participate in the procurement process.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 117 and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Taniguchi).

SCRep. 2451 (Joint)Transportation and Government Affairs and Tourism and Recreation on S.C.R. No. 176

The purpose of this Concurrent Resolution is to support the efforts of Hawaii's congressional delegation to homeport the U.S.S. Missouri (B-66) in Battleship Row.

Your Committees find that the U.S.S. Missouri is the sister ship of the U.S.S. Arizona already memorialized within Battleship Row in Pearl Harbor. Your Committees further find that returning the U.S.S. Missouri to Pearl Harbor is an appropriate tribute to the historical significance of this ship both to Hawaii and to the respective nations that it served who are now engaged in peaceful negotiations.

Upon further consideration, your Committees have amended this Concurrent Resolution by:

- (1) Changing the title to read "SENATE CONCURRENT RESOLUTION SUPPORTING THE EFFORTS OF THE HAWAII CONGRESSIONAL DELEGATION TO MOOR THE U.S.S. MISSOURI (BB-63) IN BATTLESHIP ROW";
- (2) Adding additional references about the historical significance of the U.S.S. Missouri;
- (3) Replacing the word "homeporting" with "mooring"; and
- (4) Making nonsubstantive, technical amendments for purposes of clarity and style.

As affirmed by the records of votes of the members of your Committees on Transportation and Government Affairs and Tourism and Recreation that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 176, as amended herein, and recommend that it be referred to the Committee on Ways and Means in the form attached hereto as S.C.R. No. 176, S.D. 1.

Signed by the Chairmen on behalf of the Committees.
Ayes, 4. Noes, none. Excused, 5 (Fukunaga, Iwase, Taniguchi, Anderson, Liu).

SCRep. 2452 Planning, Land and Water Use Management on S.R. No. 221

The purpose of this Resolution is to request the Board of Land and Natural Resources to lease public lands to war veterans organizations at nominal consideration as sites for camping, youth athletics, and educational activities.

Based on the testimony received at the hearing, and in light of the loyal and courageous service that war veterans have provided to their country, your Committee finds that it is more appropriate for the Board of Land and Natural Resources to review its policies and administrative rules to determine whether affordable rent structures can be established for war veterans organizations where such organizations lease public lands for use by them as campsites or as areas for youth athletics and educational activities. Your Committee has amended this Resolution accordingly, and has also amended the title of this measure to conform to the amendment.

As affirmed by the record of votes of the members of your Committee on Planning, Land and Water Use Management that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 221, and recommends that it be referred to the Committee on Transportation and Government Affairs in the form attached hereto as S.R. No. 221, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 1 (Anderson).

SCRep. 2453 Planning, Land and Water Use Management on S.C.R. No. 275

The purpose of this Concurrent Resolution is to request the Board of Land and Natural Resources to lease public lands to war veterans organizations at nominal consideration as sites for camping, youth athletics, and educational activities.

Based on the testimony received at the hearing, and in light of the loyal and courageous service that war veterans have provided to their country, your Committee finds that it is more appropriate for the Board of Land and Natural Resources to review its policies and administrative rules to determine whether affordable rent structures can be established for war veterans organizations where such organizations lease public lands for use by them as campsites or as areas for youth athletics and educational activities. Your Committee has amended this Concurrent Resolution accordingly, and has also amended the title of this measure to conform to the amendment.

As affirmed by the record of votes of the members of your Committee on Planning, Land and Water Use Management that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 275, and recommends that it be referred to the Committee on Transportation and Government Affairs in the form attached hereto as S.C.R. No. 275, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Anderson).

SCRep. 2454 Planning, Land and Water Use Management on S.R. No. 222

The purpose of this Resolution is to request the Department of Land and Natural Resources to explore alternative funding mechanisms to cover the State's share of the Kawai Nui Marsh Restoration Project.

Your Committee finds that the Kawai Nui Marsh is one of the last remaining natural wetlands in the State of Hawaii and native Hawaiian waterbirds such as the Hawaiian Duck, or Koloa, the Hawaiian Stilt, the Hawaiian Coot, and the Hawaiian Moorhen have made Kawai Nui Marsh their home, where they have thrived and propagated for centuries.

The development of lands surrounding the Kawai Nui Marsh have created runoff problems and caused degradation to the marsh and threatened the habitat of indigenous species to the point where on New Years Eve, 1988, the waters of the Marsh flooded the surrounding community, causing a great deal of damage.

In response to curtailing the effects of further floods, the Army Corps of Engineers was brought in to improve the levee which contains the marsh waters in times of heavy rains. However, the improvements to the levee have further compromised the natural ecology of the Kawai Nui Marsh.

In 1986, the United States Congress amended the Water Resources Development Act to authorize a program that would allow the Army Corps of Engineers to review their water resource construction projects and to assess the need for modifications to improve the quality of the environment.

Under this program, the Army Corps of Engineers has initiated the process of evaluating whether improvements to the Kawai Nui levee should be approved for funding. If approved, the Army Corps of Engineers would fund seventy-five per cent of the project.

The State, having assumed primary responsibility for the protection of Kawai Nui Marsh, is responsible for committing the local share prior to a final determination by the Army Corps of Engineers in order for the construction project to proceed.

Given the State's current financial situation, alternative funding mechanisms must be explored in order to provide for the State's share of the project cost.

Your Committee has amended the Resolution by removing the requirement for the Department of Land and Natural Resources to submit an analysis and itemized descriptions of the projects funded by the Special Land and Development Fund over the last five years and by making several technical, nonsubstantive amendments for the purpose of style.

As affirmed by the record of votes of the members of your Committee on Planning, Land and Water Use Management that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 222, as amended herein, and recommends that it be referred to the Committee on Ways and Means in the form attached hereto as S.R. No. 222, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Anderson).

SCRep. 2455 Planning, Land and Water Use Management on S.C.R. No. 276

The purpose of this Concurrent Resolution is to request the Department of Land and Natural Resources to explore alternative funding mechanisms to cover the State's share of the Kawai Nui Marsh Restoration Project.

Your Committee finds that the Kawai Nui Marsh is one of the last remaining natural wetlands in the State of Hawaii and native Hawaiian waterbirds such as the Hawaiian Duck, or Koloa, the Hawaiian Stilt, the Hawaiian Coot, and the Hawaiian Moorhen have made Kawai Nui Marsh their home, where they have thrived and propagated for centuries.

The development of lands surrounding the Kawai Nui Marsh have created runoff problems and caused degradation to the marsh and threatened the habitat of indigenous species to the point where on New Years Eve, 1988, the waters of the Marsh flooded the surrounding community, causing a great deal of damage.

In response to curtailing the effects of further floods, the Army Corps of Engineers was brought in to improve the levee which contains the marsh waters in times of heavy rains. However, the improvements to the levee have further compromised the natural ecology of the Kawai Nui Marsh.

In 1986, the United States Congress amended the Water Resources Development Act to authorize a program that would allow the Army Corps of Engineers to review their water resource construction projects and to assess the need for modifications to improve the quality of the environment.

Under this program, the Army Corps of Engineers has initiated the process of evaluating whether improvements to the Kawai Nui levee should be approved for funding. If approved, the Army Corps of Engineers would fund seventy-five per cent of the project.

The State, having assumed primary responsibility for the protection of Kawai Nui Marsh, is responsible for committing the local share prior to a final determination by the Army Corps of Engineers in order for the construction project to proceed.

Given the State's current financial situation, alternative funding mechanisms must be explored in order to provide for the State's share of the project cost.

Your Committee has amended the Concurrent Resolution by removing the requirement for the Department of Land and Natural Resources to submit an analysis and itemized descriptions of the projects funded by the Special Land and Development Fund over the last five years and by making several technical, nonsubstantive amendments for the purpose of style.

As affirmed by the record of votes of the members of your Committee on Planning, Land and Water Use Management that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 276, 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. 276, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Anderson).

SCRep. 2456 Ecology and Environmental Protection on S.R. No. 69

The purpose of this Resolution is to urge the United States Congress to reauthorize and strengthen the Safe Drinking Water Act (Act).

The Act provides for testing standards and reporting requirements for over eighty water contaminants in the interest of protecting the public health. Your Committee finds that the Act has not been reauthorized since 1986 and has not been taken up in the present Congress.

Your Committee believes that the Act should be amended to provide for additional testing and reporting, and to provide for increased research efforts on the health effects of various contaminants to provide the U.S. Environmental Protection Agency with the data it needs to promulgate science-based regulations to remedy the increasing water contamination problem.

As affirmed by the record of votes of the members of your Committee on Ecology and Environmental Protection that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 69 and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Aki, Chumbley).

SCRep. 2457 Ecology and Environmental Protection on S.R. No. 82

The purpose of this Resolution is to urge the United States Congress to prohibit the participation of American corporations in the deforestation of tropical rainforests.

Your Committee finds that rainforests, which originally covered much of the world, now cover only two per cent of the earth's surface or six per cent of the earth's land mass. Tropical rainforests are earth's oldest continuous ecosystems, having existed more or less in their present form for seventy to one hundred million years.

Your Committee also finds that rainforests play a critical role in stabilizing the earth's atmosphere because they hold vast amounts of carbon in their vegetation and the burning of rainforests releases carbon dioxide into the atmosphere, which is the second largest factor contributing to the greenhouse effect and a leading cause of global warming.

One important action to prevent further rainforest destruction would be to have the United States take an active role in refusing to participate in actions which destroy tropical rainforests.

Your Committee believes that this measure is environmentally responsible and would lend support to stopping rainforest deforestation.

As affirmed by the record of votes of the members of your Committee on Ecology and Environmental Protection that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 82 and recommends that it be referred to the Committee on Transportation and Government Affairs.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Chumbley, Levin).

SCRep. 2458 Ecology and Environmental Protection on S.C.R. No. 106

The purpose of this Concurrent Resolution is to urge the United States Congress to prohibit the participation of American corporations in the deforestation of tropical rainforests.

Your Committee finds that rainforests, which originally covered much of the world, now cover only two per cent of the earth's surface or six per cent of the earth's land mass. Tropical rainforests are earth's oldest continuous ecosystems, having existed more or less in their present form for seventy to one hundred million years.

Your Committee also finds that rainforests play a critical role in stabilizing the earth's atmosphere because they hold vast amounts of carbon in their vegetation and the burning of rainforests releases carbon dioxide into the atmosphere, which is the second largest factor contributing to the greenhouse effect and a leading cause of global warming.

One important action to prevent further rainforest destruction would be to have the United States take an active role in refusing to participate in actions which destroy tropical rainforests.

Your Committee believes that this measure is environmentally responsible and would lend support to stopping rainforest deforestation.

As affirmed by the record of votes of the members of your Committee on Ecology and Environmental Protection that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 106 and recommends that it be referred to the Committee on Transportation and Government Affairs.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Chumbley, Levin).

SCRep. 2459 Economic Development on S.R. No. 50

The purpose of this Resolution is to request the Office of the Governor to identify and report on various strategies implemented in other states, including financial and tax incentives, for the development of employment and other economic development initiatives.

Your Committee recognizes that the State is facing difficult economic times. Growth in the State's major industry, tourism, has slowed, while efforts to diversify the economy by encouraging the development of alternative industries have been hampered by tight fiscal constraints.

Other states have been facing similar economic challenges and have been studying and implementing development strategies to stimulate and strengthen their local economies. Your Committee believes that by studying these innovative strategies, we will be better able to craft an effective economic incentive plan for this State.

The Department of Business, Economic Development, and Tourism offered testimony in support of this measure. The Department of Taxation qualified its support by expressing its concerns about adoption of tax incentives which may be preferential. Both departments recognized the necessity to study and implement economic strategies in order to diversify the economy.

As affirmed by the record of votes of the members of your Committee on Economic Development that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 50 and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Matsuura, Tam).

SCRep. 2460 Economic Development on S.C.R. No. 73

The purpose of this Concurrent Resolution is to request the Office of the Governor to identify and report on various strategies implemented in other states, including financial and tax incentives, for the development of employment and other economic development initiatives.

Your Committee recognizes that the State is facing difficult economic times. Growth in the State's major industry, tourism, has slowed, while efforts to diversify the economy by encouraging the development of alternative industries have been hampered by tight fiscal constraints.

Other states have been facing similar economic challenges and have been studying and implementing development strategies to stimulate and strengthen their local economies. Your Committee believes that by studying these innovative strategies, we will be better able to craft an effective economic incentive plan for this State.

The Department of Business, Economic Development, and Tourism offered testimony in support of this measure. The Department of Taxation qualified its support by expressing its concerns about adoption of tax incentives which may be preferential. Both departments recognized the necessity to study and implement economic strategies in order to diversify the economy.

As affirmed by the record of votes of the members of your Committee on Economic Development that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 73 and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Matsuura, Tam).

SCRep. 2461 Economic Development on S.R. No. 90

The purpose of this Resolution is to request the Department of Business, Economic Development, and Tourism (DBEDT) to create a Construction Industry Division to serve as a resource center for the construction industry and to coordinate construction inquiries in the public and private sectors.

Your Committee finds that as a result of the current economic downturn, the State's construction industry suffers from decreased construction orders.

Your Committee believes that DBEDT may have the resources and expertise necessary to provide aid and support to the construction industry. However, the creation of an additional division to assist the industry is not economically feasible given the State's current fiscal status.

Therefore, your Committee has amended this measure by:

- (1) Changing the proposed "division" to an "advisory committee";
- (2) Providing that the advisory committee should consist of private and public sector members representing business and labor;
- (3) Clarifying that the advisory committee shall provide input and information to DBEDT on the construction industry; and that DBEDT will serve as a resource center for the construction industry, coordinate construction inquiries in the public and private sectors, and monitor economic trends that may affect the construction industry; and
- (4) Making several technical, nonsubstantive changes for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Economic Development that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 90, as amended herein, and recommends that it be referred to the Committee on Ways and Means in the form attached hereto as S.R. No. 90, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Matsuura, Tam).

SCRep. 2462 Economic Development on S.C.R. No. 118

The purpose of this Concurrent Resolution is to request the Department of Business, Economic Development, and Tourism (DBEDT) to create a Construction Industry Division to serve as a resource center for the construction industry and to coordinate construction inquiries in the public and private sectors.

Your Committee finds that as a result of the current economic downturn, the State's construction industry suffers from decreased construction orders.

Your Committee believes that DBEDT may have the resources and expertise necessary to provide aid and support to the construction industry. However, the creation of an additional division to assist the industry is not economically feasible given the State's current fiscal status.

Therefore, your Committee has amended this measure by:

- (1) Changing the proposed "division" to an "advisory committee";
- (2) Providing that the advisory committee should consist of private and public sector members representing business and labor;
- (3) Clarifying that the advisory committee shall provide input and information to DBEDT on the construction industry; and that DBEDT will serve as a resource center for the construction industry, coordinate construction inquiries in the public and private sectors, and monitor economic trends that may affect the construction industry; and
- (4) Making several technical, nonsubstantive changes for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Economic Development that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 118, 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. 118, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Matsuura, Tam).

SCRep. 2463 Economic Development on S.R. No. 156

The purpose of this Resolution is to request the Department of Business, Economic Development, and Tourism to consider establishing a federal aid information clearinghouse to make available to the people of Hawaii information regarding the availability and requirements of federal aid, grants, and other financial assistance programs related to business, cultural, and social activities and programs in the State.

Your Committee finds that while the Hawaii Office of Federal Programs Coordinator, located in Washington, D.C., is responsible for advising state and local agencies of the availability and requirements of federal aid and grants, there is no similar assistance program here in Hawaii for the general public.

Your Committee believes that during these tough economic times, information regarding the availability of federal, as well as state, financial assistance programs is vitally important to the prosperity of the State's residents. Business, cultural, and social activities in Hawaii would benefit immensely from state assistance in identifying available federal funds, completing and processing federal aid applications, and facilitating contacts with relevant state and federal agencies.

Your Committee has amended this measure by changing the "clearinghouse" to a "center", and by making several technical, nonsubstantive amendments for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Economic Development that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 156, as amended herein, and recommends that it be referred to the Committee on Ways and Means in the form attached hereto as S.R. No. 156, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Matsuura, Tam).

SCRep. 2464 Economic Development on S.C.R. No. 198

The purpose of this Concurrent Resolution is to request the Department of Business, Economic Development, and Tourism to consider establishing a federal aid information clearinghouse to make available to the people of Hawaii information regarding the availability and requirements of federal aid, grants, and other financial assistance programs related to business, cultural, and social activities and programs in the State.

Your Committee finds that while the Hawaii Office of Federal Programs Coordinator, located in Washington, D.C., is responsible for advising state and local agencies of the availability and requirements of federal aid and grants, there is no similar assistance program here in Hawaii for the general public.

Your Committee believes that during these tough economic times, information regarding the availability of federal, as well as state, financial assistance programs is vitally important to the prosperity of the State's residents. Business, cultural, and social activities in Hawaii would benefit immensely from state assistance in identifying available federal funds, completing and processing federal aid applications, and facilitating contacts with relevant state and federal agencies.

Your Committee has amended this measure by changing the "clearinghouse" to a "center", and by making several technical, nonsubstantive amendments for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Economic Development that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 198, 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. 198, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Matsuura, Tam).

SCRep. 2465 Economic Development on S.R. No. 179

The purpose of this Resolution is to request the Governor to examine the energy efficiency and conservation programs of other states, including but not limited to the State of Wisconsin, to determine the options available to the State of Hawaii to lower its energy costs.

Your Committee finds that there is a need in this State to continue to explore ways to reduce energy consumption and dependence on fossil fuels.

Many states, including the State of Wisconsin, have recently implemented ambitious and extremely successful programs to conserve energy by reducing their rates of electrical consumption. The reductions in Wisconsin have reportedly resulted in hundreds of thousands of dollars of added energy savings to the state each month, without a loss of quality or increase in overall project costs.

Your Committee finds that in this State, the Department of Business, Economic Development, and Tourism (DBEDT), on behalf of the Governor as Energy Resources Coordinator, continues to investigate and make contact with other states to determine options for energy efficiency programs. DBEDT is currently pursuing several such programs, including:

- (1) The federally-sponsored Green Lights initiative for states in which the State will retrofit ninety per cent of appropriate lighting by 1997;
- (2) Performance contracting relating to energy efficient retrofits;
- (3) Regulation of building design standards under the Model Energy Code; and
- (4) Demand-side management programs of the five regulated utilities in the State that provide rebates for installation of energy efficient measures in both private and public buildings.

Your Committee further finds that the Governor has recently issued an executive memorandum calling for support of a comprehensive energy efficiency package of incentives, mandates, and opportunities for state departments and agencies, and urging that all departments and agencies use public funds judiciously by making energy efficiency a priority.

Your Committee recognizes the accomplishments by DBEDT in the area of energy conservation. Your Committee also appreciates DBEDT's willingness to review the energy efficiency programs of other states, especially those of Wisconsin, in determining the best energy efficiency programs for Hawaii.

As affirmed by the record of votes of the members of your Committee on Economic Development that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 179 and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Matsuura, Tam).

SCRep. 2466 Economic Development on S.C.R. No. 221

The purpose of this Concurrent Resolution is to request the Governor to examine the energy efficiency and conservation programs of other states, including but not limited to the State of Wisconsin, to determine the options available to the State of Hawaii to lower its energy costs.

Your Committee finds that there is a need in this State to continue to explore ways to reduce energy consumption and dependence on fossil fuels.

Many states, including the State of Wisconsin, have recently implemented ambitious and extremely successful programs to conserve energy by reducing their rates of electrical consumption. The reductions in Wisconsin have reportedly resulted in hundreds of thousands of dollars of added energy savings to the state each month, without a loss of quality or increase in overall project costs.

Your Committee finds that in this State, the Department of Business, Economic Development, and Tourism (DBEDT), on behalf of the Governor as Energy Resources Coordinator, continues to investigate and make contact with other states to determine options for energy efficiency programs. DBEDT is currently pursuing several such programs, including:

- (1) The federally-sponsored Green Lights initiative for states in which the State will retrofit ninety per cent of appropriate lighting by 1997;
- (2) Performance contracting relating to energy efficient retrofits;
- (3) Regulation of building design standards under the Model Energy Code; and
- (4) Demand-side management programs of the five regulated utilities in the State that provide rebates for installation of energy efficient measures in both private and public buildings.

Your Committee further finds that the Governor has recently issued an executive memorandum calling for support of a comprehensive energy efficiency package of incentives, mandates, and opportunities for state departments and agencies, and urging that all departments and agencies use public funds judiciously by making energy efficiency a priority.

Your Committee recognizes the accomplishments by DBEDT in the area of energy conservation. Your Committee also appreciates DBEDT's willingness to review the energy efficiency programs of other states, especially those of Wisconsin, in determining the best energy efficiency programs for Hawaii.

As affirmed by the record of votes of the members of your Committee on Economic Development that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 221 and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Matsuura, Tam).

SCRep. 2467 Agriculture, Labor, and Employment on S.R. No. 117

The purpose of this Resolution is to approve the Biennial Review of Civil Service Compensation Plans submitted by the personnel directors of the State, Judiciary, and the counties.

Your Committee finds that Sections 77-4 and 77-5, Hawaii Revised Statutes, require all personnel directors of the State, the Judiciary, and the counties, to meet in joint conference each odd-numbered year to review the general condition of the compensation plans for civil service employees and to compile their views and recommendations for submission to the Public Employees Compensation Appeals Board for its consideration.

The Public Employees Compensation Appeals Board completed hearings on pricing and repricing appeals from affected persons and parties, made its final adjustments to the tentative compensation plans submitted by the Conference of Personnel Directors, and prepared its written findings in its "Report of Findings on Adjustments to the Compensation Plans," dated January 3, 1996.

Your Committee also finds that subsequent to the final adjustments made by the Public Employees Compensation Appeals Board, the Conference of Personnel Directors is required to submit to the Legislature, through the Office of the Governor, the compensation plans which shall be effective July 1, 1996, and the costs thereof for its information and approval.

Your Committee believes that the Resolution should move on to the Committee on Ways and Means for further scrutiny and discussion.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 117 and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Taniguchi, Solomon).

SCRep. 2468 Agriculture, Labor, and Employment on S.C.R. No. 150

The purpose of this Concurrent Resolution is to approve the Biennial Review of Civil Service Compensation Plans submitted by the personnel directors of the State, Judiciary, and the counties.

Your Committee finds that Sections 77-4 and 77-5, Hawaii Revised Statutes, require all personnel directors of the State, the Judiciary, and the counties, to meet in joint conference each odd-numbered year to review the general condition of the compensation plans for civil service employees and to compile their views and recommendations for submission to the Public Employees Compensation Appeals Board for its consideration.

The Public Employees Compensation Appeals Board completed hearings on pricing and repricing appeals from affected persons and parties, made its final adjustments to the tentative compensation plans submitted by the Conference of Personnel Directors, and prepared its written findings in its "Report of Findings on Adjustments to the Compensation Plans," dated January 3, 1996.

Your Committee also finds that subsequent to the final adjustments made by the Public Employees Compensation Appeals Board, the Conference of Personnel Directors is required to submit to the Legislature, through the Office of the Governor, the compensation plans which shall be effective July 1, 1996, and the costs thereof for its information and approval.

Your Committee believes that the Concurrent Resolution should move on to the Committee on Ways and Means for further scrutiny and discussion.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 150 and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Taniguchi, Solomon).

SCRep. 2469 Agriculture, Labor, and Employment on S.R. No. 135

The purpose of this Resolution is to request the Department of Agriculture to initiate the development of a comprehensive agricultural water delivery management system for diversified agriculture areas.

Your Committee finds that the State of Hawaii is in transition from a mono-crop corporate agricultural system to diversified agriculture. The old plantation systems incorporated the management of thousands of miles of private roads, water delivery systems, fire prevention programs, and field maintenance. Your Committee believes that the eventual

success in diversified agriculture is dependent on cooperative efforts to maintain access, water systems, and appropriate field management.

In spite of the best efforts of private landowners, state agencies and diversified agriculture lessees, no comprehensive infrastructure maintenance program is presently in place on many former plantations. Your Committee fully realizes that in order for diversified agricultural efforts in Hamakua, rural South Hilo, Waialua, Central Oahu, Ka'u, Kauai, and other present and former plantation communities to succeed, the availability of affordable, dependable water and access to properly maintained water delivery systems is critical. The purpose of this Resolution is to address this need.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 135 and recommends that it be referred to the Committee on Planning, Land and Water Use Management.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Taniguchi, Solomon).

SCRep. 2470 Agriculture, Labor, and Employment on S.C.R. No. 171

The purpose of this Concurrent Resolution is to request the Department of Agriculture to initiate the development of a comprehensive agricultural water delivery management system for diversified agriculture areas.

Your Committee finds that the State of Hawaii is in transition from a mono-crop corporate agricultural system to diversified agriculture. The old plantation systems incorporated the management of thousands of miles of private roads, water delivery systems, fire prevention programs, and field maintenance. Your Committee believes that the eventual success in diversified agriculture is dependent on cooperative efforts to maintain access, water systems, and appropriate field management.

In spite of the best efforts of private landowners, state agencies and diversified agriculture lessees, no comprehensive infrastructure maintenance program is presently in place on many former plantations. Your Committee fully realizes that in order for diversified agricultural efforts in Hamakua, rural South Hilo, Waialua, Central Oahu, Ka'u, Kauai, and other present and former plantation communities to succeed, the availability of affordable, dependable water and access to properly maintained water delivery systems is critical. The purpose of this Concurrent Resolution is to address this need.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 171 and recommends that it be referred to the Committee on Planning, Land and Water Use Management.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Taniguchi, Solomon).

SCRep. 2471 Health on S.R. No. 17

The purpose of this Resolution is to request the Department of Health to implement the guidelines released by the United States Public Health Service on July 7, 1995, entitled: "Recommendations for Human Immunodeficiency Virus Counseling and Voluntary Testing for Pregnant Women".

Your Committee finds that there is an alarming increase in the rate of human immunodeficiency virus (HIV) infection among women of childbearing age and agrees with and endorses the guidelines issued by the United States Public Health Service.

Your Committee incorporated the recommendations of the Department of Health and amended the Resolution by directing the request to the health care providers and insurers and by requesting the Department to assume responsibility for coordination, education, and policy development. Your Committee further amended this Resolution by requesting the Department to consider expanding the guidelines to include all women of childbearing age and by adding the Insurance Commissioner, Hawaii Medical Service Association, Kaiser-Permanente Medical Care Program, and other health maintenance organizations and mutual benefit societies to the list of persons receiving certified copies of the resolution. Your Committee also made nonsubstantive, technical changes for purposes of style.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 17, as amended herein, and recommends that it be referred to the Committee on Ways and Means in the form attached hereto as S.R. No. 17, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kanno).

SCRep. 2472 Health on S.C.R. No. 26

The purpose of this Concurrent Resolution is to request the Department of Health to implement the guidelines released by the United States Public Health Service on July 7, 1995, entitled: "Recommendations for Human Immunodeficiency Virus Counseling and Voluntary Testing for Pregnant Women".

Your Committee finds that there is an alarming increase in the rate of human immunodeficiency virus (HIV) infection among women of childbearing age and agrees with and endorses the guidelines issued by the United States Public Health Service.

Your Committee incorporated the recommendations of the Department of Health and amended the Concurrent Resolution by directing the request to the health care providers and insurers and by requesting the Department to assume responsibility for coordination, education, and policy development. Your Committee further amended this Concurrent Resolution by requesting the Department to consider expanding the guidelines to include all women of childbearing age and by adding the Insurance Commissioner, Hawaii Medical Service Association, Kaiser-Permanente Medical Care Program, and other health maintenance organizations and mutual benefit societies to the list of persons receiving certified copies of the resolution. Your Committee also made nonsubstantive, technical changes for purposes of style.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 26, 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. 26, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, NONE. Excused, 1 (Kanno).

SCRep. 2473 Health on S.R. No. 22

The purpose of this Resolution is to request the funding and implementation of a rural health plan for the Puna and Ka'u districts of the island of Hawaii.

Your Committee finds that the districts of Puna and Ka'u, encompassing approximately 1,508 square miles and over fifteen dispersed communities, are host to a population of 25,000 residents. The majority of Puna and Ka'u residents are located between thirty and sixty miles away from an adequate emergency medical facility.

Your Committee also finds that a study consisting of twenty-seven distinct communities throughout the State was conducted by the Department of Health and the Primary Health Care Round Table. According to this study, entitled "The Hawaii Primary Care Access Plan", July 1995, the service areas of Ka'u and Puna ranked first and third, respectively, as the highest risk areas throughout the State in terms of health and socio-economic risk.

A statewide ranking of twenty-seven primary care service areas shows that Ka'u is the highest risk area in terms of maternal and child health risk indicators, such as infant mortality, inadequate prenatal care, low birth weight births, reported medical risk births, and teen births, and that the service area of Puna ranks sixth in the same category. Puna is the highest risk area in terms of socioeconomic risk indicators such as the percentage of the population below poverty, the percentage of the population aged sixty-five years and over, the unemployment rate, the low prenatal rate, and the percentage of households on public assistance. The service area of Ka'u ranks second in that same category.

These results indicate inadequate medical services within these communities and exemplify the need for medical care in Puna and Ka'u. It is crucial that facilities appropriate for emergency care, x-ray services, mental health services, substance abuse treatment, and prenatal care immediately be provided to these communities.

Your Committee believes that a rural health plan, collaboratively compiled through existing data, medical personnel, and community input, will ensure the improvement of health facilities and make available sufficient medical services to all residents within the districts of Puna and Ka'u.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 22 and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kanno).

SCRep. 2474 Health on S.C.R. No. 31

The purpose of this Concurrent Resolution is to request the funding and implementation of a rural health plan for the Puna and Ka'u districts of the island of Hawaii.

Your Committee finds that the districts of Puna and Ka'u, encompassing approximately 1,508 square miles and over fifteen dispersed communities, are host to a population of 25,000 residents. The majority of Puna and Ka'u residents are located between thirty and sixty miles away from an adequate emergency medical facility.

Your Committee also finds that a study consisting of twenty-seven distinct communities throughout the State was conducted by the Department of Health and the Primary Health Care Round Table. According to this study, entitled "The Hawaii Primary Care Access Plan", July 1995, the service areas of Ka'u and Puna ranked first and third, respectively, as the highest risk areas throughout the State in terms of health and socio-economic risk.

A statewide ranking of twenty-seven primary care service areas shows that Ka'u is the highest risk area in terms of maternal and child health risk indicators, such as infant mortality, inadequate prenatal care, low birth weight births, reported medical risk births, and teen births, and that the service area of Puna ranks sixth in the same category. Puna is the highest risk area in terms of socioeconomic risk indicators such as the percentage of the population below poverty, the percentage of the population aged sixty-five years and over, the unemployment rate, the low prenatal rate, and the percentage of households on public assistance. The service area of Ka'u ranks second in that same category.

These results indicate inadequate medical services within these communities and exemplify the need for medical care in Puna and Ka'u. It is crucial that facilities appropriate for emergency care, x-ray services, mental health services, substance abuse treatment, and prenatal care immediately be provided to these communities.

Your Committee believes that a rural health plan, collaboratively compiled through existing data, medical personnel, and community input, will ensure the improvement of health facilities and make available sufficient medical services to all residents within the districts of Puna and Ka'u.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 31 and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kanno).

SCRep. 2475 Health on S.R. No. 83

The purpose of this Resolution is to request the Department of Health, in collaboration and consultation with various other state agencies and private organizations, to develop standards and procedures regarding the sterilization of incapacitated minors, and to report to the Legislature no later than twenty days prior to the convening of the 1997 Regular Session.

Your Committee believes that there is a need to establish standards and procedures which will adequately protect the procreative rights of incapacitated minors when sterilization is contemplated.

Your Committee amended this Resolution by deleting references to the Judiciary to remove the possibility of a conflict of interest because the Judiciary may be called upon to decide an issue pertaining to this policy decision. Your Committee further amended the Resolution by making technical, nonsubstantive changes for purposes of style and consistency.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.R. No. 83, as amended herein, and recommends that it be referred to the Committee on Judiciary in the form attached hereto as S.R. No. 83, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kanno).

SCRep. 2476 Health on S.C.R. No. 111

The purpose of this Concurrent Resolution is to request the Department of Health, in collaboration and consultation with various other state agencies and private organizations, to develop standards and procedures regarding the sterilization of incapacitated minors, and to report to the Legislature no later than twenty days prior to the convening of the 1997 Regular Session.

Your Committee believes that there is a need to establish standards and procedures which will adequately protect the procreative rights of incapacitated minors when sterilization is contemplated.

Your Committee amended this Concurrent Resolution by deleting references to the Judiciary to remove the possibility of a conflict of interest because the Judiciary may be called upon to decide an issue pertaining to this policy decision. Your Committee further amended the Concurrent Resolution by making technical, nonsubstantive changes for purposes of style and consistency.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.C.R. No. 111, as amended herein, and recommends that it be referred to the Committee on Judiciary in the form attached hereto as S.C.R. No. 111, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kanno).

SCRep. 2477 Health on S.C.R. No. 262

The purpose of this Concurrent Resolution is to urge the Department of Health to enter into a memorandum of agreement with a Hana community-based organization to assist the Hana community in the development of a Hana-based nonprofit health care organization to operate the Hana Medical Center.

Your Committee finds that the Hana community formed the Hana Health Committee to identify the health-related problems in the community and develop a plan and implementation strategy to improve the health status of the area's residents.

The Committee developed a plan, Ho'o Ku'i Kahi, to establish a community-based health care program for the district that provides comprehensive primary care services. The plan recommends the creation of an affiliation between the Department of Health and a Hana nonprofit health care organization, to transition the operation of the Hana Medical Center from the Department to the nonprofit organization. It also recommends that the State continue financing the Hana Medical Center until the nonprofit organization can provide the necessary services.

Your Committee strongly supports this measure as a means of promoting the health and welfare of the residents of this State.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 262 and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, none.

SCRep. 2478 Health on S.R. No. 215

The purpose of this Resolution is to urge the Department of Health (DOH) to make a greater effort to place children with disabilities in programs within the State of Hawaii when complying with orders of the Family Court.

Your Committee believes that placement decisions must be made on an individual basis taking into account the individual child's needs. However, your Committee finds that placing children with disabilities in programs within the State of Hawaii will lower costs for the State as well as for the minor's parents, and will facilitate visitation.

Your Committee further finds that the DOH is attempting to create programs in Hawaii so that it will not be necessary to send children with disabilities to the mainland for treatment.

Your Committee has amended the Resolution by:

- (1) Requiring the DOH to include in its report to the Legislature an analysis of out-of-state placements and the reasons for such placements; and
- (2) Making nonsubstantive, technical amendments for clarity and style.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 215, as amended herein, and recommends that it be referred to the Committee on Judiciary in the form attached hereto as S.R. No. 215, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, none.

SCRep. 2479 Health on S.C.R. No. 268

The purpose of this Concurrent Resolution is to urge the Department of Health (DOH) to make a greater effort to place children with disabilities in programs within the State of Hawaii when complying with orders of the Family Court.

Your Committee believes that placement decisions must be made on an individual basis taking into account the individual child's needs. However, your Committee finds that placing children with disabilities in programs within the State of Hawaii will lower costs for the State as well as for the minor's parents, and will facilitate visitation.

Your Committee further finds that the DOH is attempting to create programs in Hawaii so that it will not be necessary to send children with disabilities to the mainland for treatment.

Your Committee has amended the Concurrent Resolution by:

- (1) Requiring the DOH to include in its report to the Legislature an analysis of out-of-state placements and the reasons for such placements; and
- (2) Making nonsubstantive, technical amendments for clarity and style.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 268, as amended herein, and recommends that it be referred to the Committee on Judiciary in the form attached hereto as S.C.R. No. 268, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, none.

SCRep. 2480 Human Services on S.C.R. No. 39

The purpose of this Concurrent Resolution is to affirm the need for a public-private program to adhere to certain principles of long-term care to address the long-term care needs of residents of Hawaii.

Your Committee finds that the elderly population of Hawaii is increasing at a rate two and a half times the national average, including the proportion of elderly persons, who will eventually need long-term care for which there is presently a critical shortage. This Concurrent Resolution would establish a principle that long-term care in Hawaii should be addressed by a public-private program that meets the principles of long-term care as stated in the Concurrent Resolution.

Your Committee further finds that it is not financially feasible for the State to undertake this effort on its own and that a joint cooperative effort with the private sector is necessary to realize meaningful results. Furthermore, the delivery of long-term care services in Hawaii tends to be fragmented. This Concurrent Resolution would promote an organized and systematic approach to the delivery of those services with the goal of delivering quality, affordable care in all forms and at all levels for the elderly citizens.

Your Committee received supporting testimony from the State Executive Office on Aging, the Department of Human Services, the Hawaii Long Term Care Association, the American Association of Retired Persons, the Hawaii Long-Term Care Reform Task Force, the Hemophilia Foundation of Hawaii, and the Healthcare Association of Hawaii.

Your Committee has made technical, nonsubstantive amendments for clarity and style.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.C.R. No. 39, 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. 39, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Aki).

SCRep. 2481 Human Services on S.C.R. No. 97

The purpose of this Concurrent Resolution is to request a study to determine the feasibility of establishing a services to the deaf branch within the Department of Human Services.

Your Committee finds that services to the deaf should be augmented and supported to a comparable level of services to the blind, which far exceeds services to the deaf. The result of this benign neglect is that the deaf and hard of hearing go largely ignored in our society, with all the attendant consequence of alienation and isolation.

Upon recommendation of the supporting testimony of the Department of Human Services, your Committee has amended this Concurrent Resolution to delete the request for the study and to instead request the Department of Human Services and the Governor to restore funding for a single position to provide services to the deaf and the hard of hearing which was cut from last year's budget.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.C.R. No. 97, 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. 97, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Aki)

SCRep. 2482 Human Services on S.R. No. 97

The purpose of this resolution is to request the Department of Human Services (DHS) to staff an office in the Puna district to better serve residents in that district.

The DHS currently has rented offices in the Prince Kuhio Plaza in Hilo, for which it pays a high rent and which is about fifteen miles from Puna. Recently, office space was offered to the DHS in Puna at a more favorable rent.

Your Committee finds that the socio-economic demographics of the Puna district are such that the residents frequently utilize services offered by the DHS. As such, locating an office in Puna makes infinitely more sense.

Your Committee has amended this resolution on the recommendation of the DHS to request a cost benefit analysis of placing and staffing an office in Puna and to report to the legislature for the 1997 session.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 97, as amended herein, and recommends that it be referred to the Committee on Ways and Means in the form attached hereto as S.R. No. 97, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Grauly).

SCRep. 2483 Human Services on S.C.R. No. 125

The purpose of this concurrent resolution is to request the Department of Human Services (DHS) to staff an office in the Puna district to better serve residents in that district.

The DHS currently has rented offices in the Prince Kuhio Plaza in Hilo, for which it pays a high rent and which is about fifteen miles from Puna. Recently, office space was offered to the DHS in Puna at a more favorable rent.

Your Committee finds that the socio-economic demographics of the Puna district are such that the residents frequently utilize services offered by the DHS. As such, locating an office in Puna makes infinitely more sense.

Your Committee has amended this concurrent resolution on the recommendation of the DHS to request a cost benefit analysis of placing and staffing an office in Puna and to report to the legislature for the 1997 session.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 125, 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. 125, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Grauly).

SCRep. 2484 (Joint) Human Services and Health on S.R. No. 152

The purpose of this Resolution is to request the Departments of Human Services (DHS) and Health (DOH) to redirect their resources toward primary prevention activities, particularly as they relate to improving the health of Hawaiians in the State.

Your Committees find that native Hawaiians are a high risk group in the area of primary health prevention. Native Hawaiians do not enjoy the same health status as does the general public. For example, Native Hawaiians have been found to have higher incidences of chronic diseases such as cancer, diabetes, and cardiovascular disease. Therefore, your Committees believe that primary prevention health programs for Native Hawaiians, as well as for the population as a whole, would go far to ameliorate this direful situation.

Your Committees have amended this Resolution to delete language requesting the DHS and DOH to redirect their resources and to add language requesting the department to instead review their current priorities and reaffirm the importance of their primary prevention activities. Your Committees have also deleted "in the State" as referring to Hawaiians and have made technical, nonsubstantive amendments for style.

As affirmed by the records of votes of the members of your Committees on Human Services and Health that are attached to this report, your Committees are in accord with the intent and purpose of S.R. No. 152, as amended herein, and recommend that it be referred to the Committee on Ways and Means in the form attached hereto as S.R. No. 152, S.D. 1.

Signed by the Chairmen on behalf of the Committees.
Ayes, 7. Noes, none. Excused, 1 (Aki).

SCRep. 2485 (Joint) Human Services and Health on S.C.R. No. 192

The purpose of this Concurrent Resolution is to request the Departments of Human Services (DHS) and Health (DOH) to redirect their resources toward primary prevention activities, particularly as they relate to improving the health of Hawaiians in the State.

Your Committees find that native Hawaiians are a high risk group in the area of primary health prevention. Native Hawaiians do not enjoy the same health status as does the general public. For example, Native Hawaiians have been found to have higher incidences of chronic diseases such as cancer, diabetes, and cardiovascular disease. Therefore, your Committees believe that primary prevention health programs for Native Hawaiians, as well as for the population as a whole, would go far to ameliorate this direful situation.

Your Committees have amended this Concurrent Resolution to delete language requesting the DHS and DOH to redirect their resources and to add language requesting the department to instead review their current priorities and reaffirm the importance of their primary prevention activities. Your Committees have also deleted "in the State" as referring to Hawaiians and have made technical, nonsubstantive amendments for style.

As affirmed by the records of votes of the members of your Committees on Human Services and Health that are attached to this report, your Committees are in accord with the intent and purpose of S.C.R. No. 192, as amended herein, and recommend that it be referred to the Committee on Ways and Means in the form attached hereto as S.C.R. No. 192, S.D. 1.

Signed by the Chairmen on behalf of the Committees.
Ayes, 7. Noes, none. Excused, 1 (Aki).

SCRep. 2486 (Joint) Economic Development and Higher Education, Culture, and Arts on S.R. No. 105

The purpose of this Resolution is to request the Department of Business, Economic Development, and Tourism (DBEDT) and the State Foundation on Culture and the Arts (SFCA) to support and cooperate with Art Calendar--Hawaii's Database, including, but not limited to, distributing information and fact sheets to the media, assisting in developing printed material identifying Hawaii as the culture and arts capital of the Pacific Rim, and other activities that would allow the arts and culture community to "piggy-back" on existing tourism programs that will develop diversified economic development.

Your Committees find that Art Calendar--Hawaii's Database (ArCH) is a nonprofit, private-public joint venture established to bring the diverse segments of the arts and culture community in Hawaii to a common vision and effort - to support the arts, diversify tourism, and stimulate the State's lagging economy.

Your Committees believe that ArCH, DBEDT, and SFCA can work together to develop information and programs that promote Hawaii's arts and culture community to a wider range of potential state visitors, thereby enhancing the diversified nature of the State's tourism industry. This innovative, coordinated effort can best be highlighted by declaring 1997 the Year of Hawaii's Art and Culture.

DBEDT, SFCA, and the Waikiki Gallery Inc. testified in support of this measure.

Your Committees have amended this measure by:

- (1) Requesting the Hawaii Visitors Bureau to join DBEDT and SFCA in supporting and cooperating with ArCH;
- (2) Requesting that the Year of Hawaii's Art and Culture feature the Arts Hawaii Festival as the highlight of the year's events and that the festival remain an annual event; and

- (3) Making several technical, nonsubstantive changes for purposes of style, clarity, and conformity.

As affirmed by the records of votes of the members of your Committees on Economic Development and Higher Education, Culture, and Arts that are attached to this report, your Committees concur with the intent and purpose of S.R. No. 105, as amended herein, and recommend that it be referred to the Committee on Tourism and Recreation in the form attached hereto as S.R. No. 105, S.D. 1.

Signed by the Chairmen on behalf of the Committees.

Ayes, 6. Noes, none. Excused, 5 (Fernandes Salling, Ikeda, Iwase, Levin, Matsuura).

SCRep. 2487 (Joint) Economic Development and Higher Education, Culture, and Arts on S.C.R. No. 136

The purpose of this Concurrent Resolution is to request the Department of Business, Economic Development, and Tourism (DBEDT) and the State Foundation on Culture and the Arts (SFCA) to support and cooperate with Art Calendar--Hawaii's Database, including, but not limited to, distributing information and fact sheets to the media, assisting in developing printed material identifying Hawaii as the culture and arts capital of the Pacific Rim, and other activities that would allow the arts and culture community to "piggy-back" on existing tourism programs that will develop diversified economic development.

Your Committees find that Art Calendar--Hawaii's Database (ArCH) is a nonprofit, private-public joint venture established to bring the diverse segments of the arts and culture community in Hawaii to a common vision and effort - to support the arts, diversify tourism, and stimulate the State's lagging economy.

Your Committees believe that ArCH, DBEDT, and SFCA can work together to develop information and programs that promote Hawaii's arts and culture community to a wider range of potential state visitors, thereby enhancing the diversified nature of the State's tourism industry. This innovative, coordinated effort can best be highlighted by declaring 1997 the Year of Hawaii's Art and Culture.

DBEDT, SFCA, and the Waikiki Gallery Inc. testified in support of this measure.

Your Committees have amended this measure by:

- (1) Requesting the Hawaii Visitors Bureau to join DBEDT and SFCA in supporting and cooperating with ArCH;
- (2) Requesting that the Year of Hawaii's Art and Culture feature the Arts Hawaii Festival as the highlight of the year's events and that the festival remain an annual event; and
- (3) Making several technical, nonsubstantive changes for purposes of style, clarity, and conformity.

As affirmed by the records of votes of the members of your Committees on Economic Development and Higher Education, Culture, and Arts that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 136, as amended herein, and recommend that it be referred to the Committee on Tourism and Recreation in the form attached hereto as S.C.R. No. 136, S.D. 1.

Signed by the Chairmen on behalf of the Committees.

Ayes, 6. Noes, none. Excused, 5 (Fernandes Salling, Ikeda, Iwase, Levin, Matsuura).

SCRep. 2488 Health on S.C.R. No. 238

The purpose of this Concurrent Resolution is to request the Department of Health to require all restaurants, dining rooms, and other food service establishments to clean the ducts and replace the filters of their air conditioning systems on a more frequent basis.

Your Committee finds that among the most prevalent health problems in our society is indoor air pollution caused by improper maintenance of ventilation and air conditioning systems in many buildings used by the public. Your Committee further finds that this indoor air pollution causes many illnesses through airborne contaminants that could be eliminated if the ventilation and air conditioning systems were more adequately maintained through the cleaning of ducts and replacement of filters.

Upon further consideration, your Committee has amended this Concurrent Resolution by:

- (1) Changing the title and applicable clauses to include all commercial and public buildings;
- (2) Requiring building owners or managers to retain records of the maintenance of the air conditioning systems; and
- (3) Making nonsubstantive, technical amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 238, 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. 238, S.D. 1.

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, none.

SCRep. 2489 (Joint) Health and Human Services on S.R. No. 191

The purpose of this Resolution is to request a study of restructuring health and human services.

The Legislative Reference Bureau is requested to conduct a study about restructuring the delivery of health and human services in Hawaii, examining the experience and models of other states. Your Committees find that the current structure for financing and delivering health and human services may be obsolete, given the needs of people today, the emphasis on decentralization and accountability, and the goal of making these services comprehensive and integrated, among other trends.

This study would help to inform the Legislature on possible departmental reorganization and restructuring, based in part on what has occurred in other states and in consideration of Hawaii's uniqueness.

Your Committees received supporting testimony from the Department of Health and the Department of Human Services.

As affirmed by the records of votes of the members of your Committees on Health and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of S.R. No. 191 and recommend that it be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.
Ayes, 7. Noes, none. Excused, 1 (Aki).

SCRep. 2490 (Joint) Health and Human Services on S.C.R. No. 233

The purpose of this Concurrent Resolution is to request a study of restructuring health and human services.

The Legislative Reference Bureau is requested to conduct a study about restructuring the delivery of health and human services in Hawaii, examining the experience and models of other states. Your Committees find that the current structure for financing and delivering health and human services may be obsolete, given the needs of people today, the emphasis on decentralization and accountability, and the goal of making these services comprehensive and integrated, among other trends.

This study would help to inform the Legislature on possible departmental reorganization and restructuring, based in part on what has occurred in other states and in consideration of Hawaii's uniqueness.

Your Committees received supporting testimony from the Department of Health and the Department of Human Services.

As affirmed by the records of votes of the members of your Committees on Health and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of S.C.R. No. 233 and recommend that it be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.
Ayes, 7. Noes, none. Excused, 1 (Aki).

SCRep. 2491 (Joint) Communications and Public Utilities and Transportation and Government Affairs on S.R. No. 161

The purpose of this Resolution is to request the Legislative Reference Bureau to conduct a comprehensive study on underground utility policies in effect nationally, including overhead to underground utility facilities conversion programs and their correlating financial plans, and to suggest alternative programs Hawaii may adopt to progressively eliminate overhead utility facilities in a cost-efficient and effective manner.

Your Committees find that the pervasiveness of utility poles with overhead wiring in the State not only presents potentially serious driving hazards, but is also extremely unsightly. Visitors coming to our islands are often surprised and then dismayed to see the tangles of wires obstructing the otherwise magnificent views.

This does not have to be the case, however, as other states have shown. States including California and Washington have successfully instituted comprehensive programs to convert existing overhead to underground utility facilities, using a variety of financing schemes including the utilization of federal funds. Hawaii can benefit from studying these and other programs in order to determine the most appropriate conversion plan for the State.

The Consumer Advocate, the Department of Transportation, Hawaiian Electric Company, Inc., GTE Hawaiian Tel, The Outdoor Circle, a non-profit organization, and several private citizens testified in support of this measure.

Your Committees have amended this measure by providing that the scope of the study shall include the degree to which relevant state underground conversion programs are based upon or have otherwise considered:

- (1) Comprehensive cost/benefit analyses;
- (2) Evaluations of the equitableness of requiring taxpayers, ratepayers, or utility shareholders to bear some or all of the conversion costs;
- (3) Plans to exempt utility customers who do not benefit from or desire the conversion;
- (4) Evaluations of whether all new utility lines shall be placed underground; and

(5) Other preliminary analyses, evaluations, and studies.

Your Committees have also required the Legislative Reference Bureau to report to the Regular Session of 1997 and made several technical, nonsubstantive amendments for purposes of style and clarity.

As affirmed by the records of votes of the members of your Committees on Communications and Public Utilities and Transportation and Government Affairs that are attached to this report, your Committees concur with the intent and purpose of S.R. No. 161, as amended herein, and recommend that it be referred to the Committee on Ways and Means in the form attached hereto as S.R. No. 161, S.D. 1.

Signed by the Chairmen on behalf of the Committees.
Ayes, 8. Noes, none. Excused, 4 (Ihara, Kanno, Matsuura, Taniguchi).

SCRep. 2492 (Joint) Communications and Public Utilities and Transportation and Government Affairs on S.C.R. No. 203

The purpose of this Concurrent Resolution is to request the Legislative Reference Bureau to conduct a comprehensive study on underground utility policies in effect nationally, including overhead to underground utility facilities conversion programs and their correlating financial plans, and to suggest alternative programs Hawaii may adopt to progressively eliminate overhead utility facilities in a cost-efficient and effective manner.

Your Committees find that the pervasiveness of utility poles with overhead wiring in the State not only presents potentially serious driving hazards, but is also extremely unsightly. Visitors coming to our islands are often surprised and then dismayed to see the tangles of wires obstructing the otherwise magnificent views.

This does not have to be the case, however, as other states have shown. States including California and Washington have successfully instituted comprehensive programs to convert existing overhead to underground utility facilities, using a variety of financing schemes including the utilization of federal funds. Hawaii can benefit from studying these and other programs in order to determine the most appropriate conversion plan for the State.

The Consumer Advocate, the Department of Transportation, Hawaiian Electric Company, Inc., GTE Hawaiian Tel, The Outdoor Circle, a non-profit organization, and several private citizens testified in support of this measure.

Your Committees have amended this measure by providing that the scope of the study shall include the degree to which relevant state underground conversion programs are based upon or have otherwise considered:

- (1) Comprehensive cost/benefit analyses;
- (2) Evaluations of the equitableness of requiring taxpayers, ratepayers, or utility shareholders to bear some or all of the conversion costs;
- (3) Plans to exempt utility customers who do not benefit from or desire the conversion;
- (4) Evaluations of whether all new utility lines shall be placed underground; and
- (5) Other preliminary analyses, evaluations, and studies.

Your Committees have also required the Legislative Reference Bureau to report to the Regular Session of 1997 and made several technical, nonsubstantive amendments for purposes of style and clarity.

As affirmed by the records of votes of the members of your Committees on Communications and Public Utilities and Transportation and Government Affairs that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 203, as amended herein, and recommend that it be referred to the Committee on Ways and Means in the form attached hereto as S.C.R. No. 203, S.D. 1.

Signed by the Chairmen on behalf of the Committees.
Ayes, 8. Noes, none. Excused, 4 (Ihara, Kanno, Matsuura, Taniguchi).

SCRep. 2493 (Joint) Hawaiian Affairs and Judiciary on S.R. No. 48

The purpose of this Resolution is to request the President and the Congress of the United States to extend the same privileges to Native Hawaiians as have been granted to Native Americans and Alaskan Natives regarding federal programs and technical assistance.

Your Committees find that the federal government has a wide range of programs to help Native American groups, such as in housing, financial, and technical assistance. Unfortunately, Native Hawaiians are not considered to be Native Americans and so are denied access to these programs on the basis of an artificial distinction between Native Hawaiians and Native Americans. As a partial result, Native Hawaiians have had all the housing, economic, and social ills imaginable, as documented by the 1993 report of the National Commission on American Indian, Alaskan Native, and Native Hawaiian Housing which found that Native Hawaiians have serious problems in homelessness, unemployment, low income, poor housing conditions, and lack of conventional home financing due to the trust status of the Hawaiian Home lands. This Resolution is intended to attempt to rectify these injustices by granting to Native Hawaiians the same privileges as other Native Americans and the Alaskan Natives to be eligible for special federal program participation.

Your Committees have amended this Resolution to add that the Hawaiian Home Lands Recovery Act of 1995 places responsibility in the United States Department of the Interior to assist in obtaining federal program benefits for Native Hawaiians and the Department of Hawaiian Home Lands (DHHL). Your Committees have further amended this Resolution to request that the State Attorney General support the efforts of the United States Department of the Interior to implement the Hawaiian Home Lands Recovery Act of 1995 and pursue measures to increase the DHHL's and Native Hawaiians access to federal programs. Technical, nonsubstantive amendments also were made for clarity.

As affirmed by the records of votes of the members of your Committees on Hawaiian Affairs and Judiciary that are attached to this report, your Committees concur with the intent and purpose of S.R. No. 48, as amended herein, and recommend that it be referred to the Committee on Ways and Means in the form attached hereto as S.R. No. 48, S.D. 1.

Signed by the Chairmen on behalf of the Committees.
Ayes, 7. Noes, none. Excused, 3 (Chumbley, Levin, Tam).

SCRep. 2494 (Joint) Hawaiian Affairs and Judiciary on S.C.R. No. 71

The purpose of this Concurrent Resolution is to request the President and the Congress of the United States to extend the same privileges to Native Hawaiians as have been granted to Native Americans and Alaskan Natives regarding federal programs and technical assistance.

Your Committees find that the federal government has a wide range of programs to help Native American groups, such as in housing, financial, and technical assistance. Unfortunately, Native Hawaiians are not considered to be Native Americans and so are denied access to these programs on the basis of an artificial distinction between Native Hawaiians and Native Americans. As a partial result, Native Hawaiians have had all the housing, economic, and social ills imaginable, as documented by the 1993 report of the National Commission on American Indian, Alaskan Native, and Native Hawaiian Housing which found that Native Hawaiians have serious problems in homelessness, unemployment, low income, poor housing conditions, and lack of conventional home financing due to the trust status of the Hawaiian Home lands. This Concurrent Resolution is intended to attempt to rectify these injustices by granting to Native Hawaiians the same privileges as other Native Americans and the Alaskan Natives to be eligible for special federal program participation.

Your Committees have amended this Concurrent Resolution to add that the Hawaiian Home Lands Recovery Act of 1995 places responsibility in the United States Department of the Interior to assist in obtaining federal program benefits for Native Hawaiians and the Department of Hawaiian Home Lands (DHHL). Your Committees have further amended this Concurrent Resolution to request that the State Attorney General support the efforts of the United States Department of the Interior to implement the Hawaiian Home Lands Recovery Act of 1995 and pursue measures to increase the DHHL's and Native Hawaiians access to federal programs. Technical, nonsubstantive amendments also were made for clarity.

As affirmed by the records of votes of the members of your Committees on Hawaiian Affairs and Judiciary that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 71, as amended herein, and recommend that it be referred to the Committee on Ways and Means in the form attached hereto as S.C.R. No. 71, S.D. 1.

Signed by the Chairmen on behalf of the Committees.
Ayes, 7. Noes, none. Excused, 3 (Chumbley, Levin, Tam).

SCRep. 2495 (Joint) Hawaiian Affairs and Judiciary on S.C.R. No. 193

The purpose of this concurrent resolution is to request public and private sector entities to take steps to implement the action plan regarding Native Hawaiians in the criminal justice system.

In 1995, the Legislature adopted House Concurrent Resolution No. 223, requesting the formation of a consortium of public and private organizations, to be coordinated by Alu Like, Inc., to address the issue of overrepresentation of Native Hawaiians in the criminal justice system and to collaboratively develop an action plan to reduce the incarceration of Native Hawaiians. That study was prompted by a conference in 1994, again coordinated by Alu Like, Inc., which brought together judges, prosecutors, police, corrections and probation officials, defense attorneys, and various social service agencies to develop solutions to reduce the incarceration rate for Native Hawaiians for both youths and adults, with recommended actions internal and external to the criminal justice system.

Pursuant to House Concurrent Resolution No. 223, Alu Like, Inc. established a study consortium on Native Hawaiians in the criminal justice system to work on issues relating to prevention and treatment, education, ho'oponopono, and the criminal justice system process. The consortium submitted an action plan to the Legislature on December 27, 1995, containing thirteen priority objectives together with implementation workplans to achieve the goal of reducing by the year 2005 the proportion of Native Hawaiians in the criminal justice system in relation to their proportion in the general population.

This concurrent resolution is intended to implement that action plan. Your Committees find that the action plan is a solid and valid analysis of the issues, problems, alternatives, and solutions to Native Hawaiians in the criminal justice system. This State cannot afford not to implement the recommendations contained in the action plan. Circumstances like these for Native Hawaiians will not improve in time on their own, unless help is forthcoming from private and government sectors involved in the criminal justice and social service systems.

Your Committees have amended this concurrent resolution to:

- (1) Clarify that the various requests to various public and private entities are made on the basis of whether the requests are possible to fulfill;
- (2) Delete the paragraph requesting the stipulation of funds in budget provisos; and
- (3) Add that a certified copy be transmitted to Alu Like, Inc. for the purpose of transmittal to the public and private entities listed in the action plan.

As affirmed by the records of votes of the members of your Committees on Hawaiian Affairs and Judiciary that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 193, as amended herein, and recommend that it be referred to the Committee on Ways and Means in the form attached hereto as S.C.R. No. 193, S.D. 1.

Signed by the Chairmen on behalf of the Committees.
Ayes, 7. Noes, none. Excused, 3 (Chumbley, Levin, Tam).

SCRep. 2496 (Joint) Hawaiian Affairs and Agriculture, Labor, and Employment on S.R. No. 200

The purpose of this Resolution is to request the Department of Hawaiian Home Lands (DHHL) to discuss with the United States Department of Defense the possibility of the federal military including as part of their regular training activities in Hawaii, the construction of infrastructure on Hawaiian home lands.

Some of the many activities involved in the regular training of United States military forces include the construction of infrastructure, such as building and clearing roads and digging ditches for placement of utility lines, which is exactly what is needed and is unaffordable on Hawaiian home lands. The United States military has the necessary equipment, personnel, and other resources to build the infrastructure for the DHHL. Building infrastructure would provide good, practical training, thereby resulting in a win-win opportunity.

Your Committees find that the United States military has a long and honorable tradition of extending their "kokua" to Hawaii. Therefore, asking them to assist in the construction of infrastructure on Hawaiian home lands is a reasonable and natural extension of that tradition.

As affirmed by the records of votes of the members of your Committees on Hawaiian Affairs and Agriculture, Labor, and Employment that are attached to this report, your Committees concur with the intent and purpose of S.R. No. 200 and recommend that it be referred to the Committee on Transportation and Government Affairs.

Signed by the Chairmen on behalf of the Committees.
Ayes, 6. Noes, none. Excused, 4 (Levin, McCartney, Solomon, Taniguchi).

SCRep. 2497 (Joint) Hawaiian Affairs and Agriculture, Labor, and Employment on S.C.R. No. 252

The purpose of this Concurrent Resolution is to request the Department of Hawaiian Home Lands (DHHL) to discuss with the United States Department of Defense the possibility of the federal military including as part of their regular training activities in Hawaii, the construction of infrastructure on Hawaiian home lands.

Some of the many activities involved in the regular training of United States military forces include the construction of infrastructure, such as building and clearing roads and digging ditches for placement of utility lines, which is exactly what is needed and is unaffordable on Hawaiian home lands. The United States military has the necessary equipment, personnel, and other resources to build the infrastructure for the DHHL. Building infrastructure would provide good, practical training, thereby resulting in a win-win opportunity.

Your Committees find that the United States military has a long and honorable tradition of extending their "kokua" to Hawaii. Therefore, asking them to assist in the construction of infrastructure on Hawaiian home lands is a reasonable and natural extension of that tradition.

As affirmed by the records of votes of the members of your Committees on Hawaiian Affairs and Agriculture, Labor, and Employment that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 252 and recommend that it be referred to the Committee on Transportation and Government Affairs.

Signed by the Chairmen on behalf of the Committees.
Ayes, 6. Noes, none. Excused, 4 (Levin, McCartney, Solomon, Taniguchi).

SCRep. 2498 Education on S.C.R. No. 19

The purpose of this Concurrent Resolution is to request that the Department of Education (DOE) convene a task force made up of representatives from the Department of Transportation, the Department of Accounting and General Services, the county police departments, public school principals, parent-teacher-student associations, school bus companies under contract with the State, students, and concerned citizens to study proposals and recommend an action plan to implement a school bus safety program for the State.

Your Committee finds that neither the DOE nor DAGS has safety standards or procedures for children who use school buses and that there is a clear need for a study of existing laws, regulations, and policies involving school bus safety. The task force proposed by this Concurrent Resolution would provide the appropriate forum for such study.

Your Committee further finds that there are traffic codes and court cases from other states that have addressed school bus safety as well as a 1995 National School Bus Safety Standard Manual which was developed as a guide for developing and maintaining school bus safety regulations. The task force can refer to such materials to guide its deliberations.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 19 and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Bunda).

SCRep. 2499 Education on S.R. No. 25

The purpose of this Resolution is to request that the Board of Education establish temporary positions and enter into collective bargaining agreements to benefit intermediate and high school music teachers.

Specifically, the measure requests that the Board of Education:

- (1) Create 20.00 temporary, full-time equivalent, educational assistant positions for music education, and to equitably distribute these positions among intermediate and high schools in the State based on the number of students enrolled in band, orchestra, and other music classes;
- (2) Enter into a collective bargaining agreement with the Hawaii State Teachers Association to provide pay differentials of \$5,000 per school year for intermediate and high school music teachers without marching band responsibilities, and pay differentials of \$10,000 per school year for high school music teachers whose programs include marching band; and
- (3) Enter into a collective bargaining agreement with the Hawaii State Teachers Association to:
 - (A) Excuse intermediate and high school music teachers from all noninstructional duties, including, but not limited to: supervising student activities (e.g., assemblies and fieldtrips), managing a homeroom, serving yard (e.g., playground) duty, advising students and student organizations, and mentoring other teachers;
 - (B) Grant intermediate and high school music teachers an extra preparation period to address the administrative needs of the school's music education program; and
 - (C) Define a full-time instructional load for an intermediate or high school music teacher to be not less than eighty students but not more than one hundred sixty students.

Your Committee finds that many high school band directors spend more than six hundred hours per year (the equivalent of eighty-six, seven-hour school days) beyond the official school day on band-related activities. These activities include monitoring folder and music check-out and return, organizing and conducting group sectionals, designing marching drills, scheduling and supervising additional evening or weekend performances, planning and preparing for participation in music festivals, planning and conducting noncredit pep bands and stage bands, and involvement in band-booster programs.

Your Committee also finds that the Department of Education's recommended student-to-teacher ratio for band programs is one hundred fifty-nine to one (159:1); however, this recommendation is usually exceeded at schools with large band programs. Although the workload of band directors can be reduced by hiring additional music teachers and educational assistants, there is also a need to compensate band directors for the extra hours they spend on band-related activities throughout the calendar year.

Your Committee believes that it is in the best interest of the State to ensure that current band directors do not "burn out" or leave the teaching profession for less stressful or more profitable occupations.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 25 and recommends that it be referred to the Committee on Agriculture, Labor, and Employment.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Bunda).

SCRep. 2500 Education on S.C.R. No. 36

The purpose of this Concurrent Resolution is to request that the Board of Education establish temporary positions and enter into collective bargaining agreements to benefit intermediate and high school music teachers.

Specifically, the measure requests that the Board of Education:

- (1) Create 20.00 temporary, full-time equivalent, educational assistant positions for music education, and to equitably distribute these positions among intermediate and high schools in the State based on the number of students enrolled in band, orchestra, and other music classes;
- (2) Enter into a collective bargaining agreement with the Hawaii State Teachers Association to provide pay differentials of \$5,000 per school year for intermediate and high school music teachers without marching band

responsibilities, and pay differentials of \$10,000 per school year for high school music teachers whose programs include marching band; and

- (3) Enter into a collective bargaining agreement with the Hawaii State Teachers Association to:
- (A) Excuse intermediate and high school music teachers from all noninstructional duties, including, but not limited to: supervising student activities (e.g., assemblies and fieldtrips), managing a homeroom, serving yard (e.g., playground) duty, advising students and student organizations, and mentoring other teachers;
 - (B) Grant intermediate and high school music teachers an extra preparation period to address the administrative needs of the school's music education program; and
 - (C) Define a full-time instructional load for an intermediate or high school music teacher to be not less than eighty students but not more than one hundred sixty students.

Your Committee finds that many high school band directors spend more than six hundred hours per year (the equivalent of eighty-six, seven-hour school days) beyond the official school day on band-related activities. These activities include monitoring folder and music check-out and return, organizing and conducting group sectionals, designing marching drills, scheduling and supervising additional evening or weekend performances, planning and preparing for participation in music festivals, planning and conducting noncredit pep bands and stage bands, and involvement in band-booster programs.

Your Committee also finds that the Department of Education's recommended student-to-teacher ratio for band programs is one hundred fifty-nine to one (159:1); however, this recommendation is usually exceeded at schools with large band programs. Although the workload of band directors can be reduced by hiring additional music teachers and educational assistants, there is also a need to compensate band directors for the extra hours they spend on band-related activities throughout the calendar year.

Your Committee believes that it is in the best interest of the State to ensure that current band directors do not "burn out" or leave the teaching profession for less stressful or more profitable occupations.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 36 and recommends that it be referred to the Committee on Agriculture, Labor, and Employment.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Bunda).

SCRep. 2501 Education on S.R. No. 32

The purpose of this Resolution is to request the Department of Education (DOE) to initiate a program to establish school business managers/CIP facilitators for each school complex.

Your Committee finds that a qualified person to fill the position of business manager would greatly augment the administrative capabilities of the school principals, particularly as to budgetary matters, expense control, and capital improvements monitoring. These are the kinds of matters that detract from a principal's daily duties of providing education to the students. Business matters, though necessary, are really ancillary and secondary to education and as such should rightfully be handled by a different person with education, training, and experience in accounting, finance, and general repairs.

Your Committee has amended this Resolution by deleting references to "capital improvements facilitator," which is encompassed within the concept of school business manager as described in the Resolution.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 32, as amended herein, and recommends that it be referred to the Committee on Ways and Means, in the form attached hereto as S.R. No. 32, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Bunda).

SCRep. 2502 Education on S.C.R. No. 44

The purpose of this Concurrent Resolution is to request the Department of Education (DOE) to initiate a program to establish school business managers/CIP facilitators for each school complex.

Your Committee finds that a qualified person to fill the position of business manager would greatly augment the administrative capabilities of the school principals, particularly as to budgetary matters, expense control, and capital improvements monitoring. These are the kinds of matters that detract from a principal's daily duties of providing education to the students. Business matters, though necessary, are really ancillary and secondary to education and as such should rightfully be handled by a different person with education, training, and experience in accounting, finance, and general repairs.

Your Committee has amended this Concurrent Resolution by deleting references to "capital improvements facilitator," which is encompassed within the concept of school business manager as described in the Concurrent Resolution.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 44, 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. 44, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Bunda).

SCRep. 2503 Education on S.R. No. 34

The purpose of this Resolution is to urge the Department of Education to include adequate staffing for the Adult Education Program.

Your Committee finds that the Department of Education administers and conducts an Adult Education Program pursuant to authority conferred by section 26-12, Hawaii Revised Statutes, which enables students to obtain a general education diploma in lieu of a high school degree. The target group that the Adult Education Program services are people who have normally dropped out of high school or otherwise never had the opportunity to finish conventional high school.

Your Committee believes that because these students are usually earnest and sincere in wanting to obtain a high school education in order to better themselves for future endeavors, it is critical that there be adequate staffing of the Adult Education Program, such as teachers, clerks, and full-time counselors, to meet and otherwise accommodate the needs of program students in order to ensure that they will successfully complete the program which is usually their last hope of obtaining their high school education.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 34 and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Bunda).

SCRep. 2504 Education on S.C.R. No. 46

The purpose of this Concurrent Resolution is to urge the Department of Education to include adequate staffing for the Adult Education Program.

Your Committee finds that the Department of Education administers and conducts an Adult Education Program pursuant to authority conferred by section 26-12, Hawaii Revised Statutes, which enables students to obtain a general education diploma in lieu of a high school degree. The target group that the Adult Education Program services are people who have normally dropped out of high school or otherwise never had the opportunity to finish conventional high school.

Your Committee believes that because these students are usually earnest and sincere in wanting to obtain a high school education in order to better themselves for future endeavors, it is critical that there be adequate staffing of the Adult Education Program, such as teachers, clerks, and full-time counselors, to meet and otherwise accommodate the needs of program students in order to ensure that they will successfully complete the program which is usually their last hope of obtaining their high school education.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 46 and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Bunda).

SCRep. 2505 Education on S.C.R. No. 65

The purpose of this Concurrent Resolution is to request that the State of Hawaii raise qualifications for school security personnel.

Your Committee finds that the federal CETA program and the state SCET program, which were the genesis for the State's current program, only require school security personnel to have basic entry level qualifications.

Your Committee notes that there are related issues to requiring raised qualifications of school security personnel for hire such as:

- (1) Current security personnel in permanent positions who are represented by collective bargaining agreements; and
- (2) The adequacy of the pool of applicants with higher qualifications.

Your Committee also finds that a strategic plan addressing campus security is now being formulated by the Department of Education.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 65 and recommends that it be referred to the Committee on Agriculture, Labor, and Employment.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Bunda).

SCRep. 2506 Education on S.R. No. 108

The purpose of this Resolution is to request the Governor, the Department of Education, and the Board of Education to develop plans for appropriate and affordable after-school activities for students in middle and intermediate school.

Your Committee finds that there is a great need to expand activities and programs for adolescents during after-school hours, especially those that emphasize personal responsibility and pride and constructive social relationships.

Your Committee supports this measure as an important first step towards developing after-school programs that will truly benefit the youth of our State.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 108 and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Bunda).

SCRep. 2507 Education on S.C.R. No. 139

The purpose of this Concurrent Resolution is to request the Governor, the Department of Education, and the Board of Education to develop plans for appropriate and affordable after-school activities for students in middle and intermediate school.

Your Committee finds that there is a great need to expand activities and programs for adolescents during after-school hours, especially those that emphasize personal responsibility and pride and constructive social relationships.

Your Committee supports this measure as an important first step towards developing after-school programs that will truly benefit the youth of our State.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 139 and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Bunda).

SCRep. 2508 Education on S.R. No. 124

The purpose of this Resolution is to urge the Department of Education to provide each school complex with its own athletic trainer.

Your Committee finds that there are currently only fifteen athletic trainers assigned to public schools in the State. They play an important role not only in treating sport-related injuries and rendering first aid, but also help students to understand the overall importance of athletics, self-confidence, teamwork, and initiative.

These athletic trainers put in long and demanding work days and donate their time to schools that do not have an athletic trainer to ensure that student-athletes receive the necessary attention they deserve.

Your Committee strongly supports this measure as a means of helping Hawaii's youth reach their fullest potential.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 124 and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Bunda).

SCRep. 2509 Education on S.C.R. No. 157

The purpose of this Concurrent Resolution is to urge the Department of Education to provide each school complex with its own athletic trainer.

Your Committee finds that there are currently only fifteen athletic trainers assigned to public schools in the State. They play an important role not only in treating sport-related injuries and rendering first aid, but also help students to understand the overall importance of athletics, self-confidence, teamwork, and initiative.

These athletic trainers put in long and demanding work days and donate their time to schools that do not have an athletic trainer to ensure that student-athletes receive the necessary attention they deserve.

Your Committee strongly supports this measure as a means of helping Hawaii's youth reach their fullest potential.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 157 and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Bunda).

SCRep. 2510 Education on S.C.R. No. 164

The purpose of this Concurrent Resolution is to request the presiding officers of the legislature to establish a joint interim committee on education budget reform.

Your Committee finds that over the past several years, the legislature has initiated systemic education reform to decentralize the public school system, and thereby, encourage the development of innovative curriculum and alternative administrative structures at the school-level. Your Committee further finds that while the education budget structure has been modified over the past several years, in its present lump-sum format, it does not support the recent reforms and initiatives to decentralize the public school system. Thus, your Committee believes that it is imperative that the legislature develop a school-based budget system that supports the implementation of the systemic reforms initiated over the past several years.

Upon further consideration, your Committee has amended this Concurrent Resolution by including the Hawaii State Teachers Association and the Hawaii Government Employees Association as members of the interim committee and deleting the reference to others interested in education reform.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 164, 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. 164, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Bunda).

SCRep. 2511 Education on S.C.R. No. 167

The purpose of this Concurrent Resolution is to urge the Board of Education and the Superintendent of Education to expeditiously respond to the unmet educational needs of hawaii's deaf, hard-of-hearing, and deaf-blind students.

Your Committee finds that the State of Hawaii is mandated by law to provide appropriate education to all children, unless they are otherwise excluded from attending school. Your Committee further believes that the Department of Education, through its ongoing efforts to deploy resources to the schools, needs to target additional resources to meet the unmet communication and educational needs of these exceptional students.

Your Committee has amended this Concurrent Resolution by:

- (1) Inserting the word "communication" in the title and the body of this measure to clarify that unmet needs are both communication and educational;
- (2) Directing the Board of Education and the Superintendent of Education to consider establishing additional positions, providing increased staff training, establishing American Sign Language and Deaf Culture credit courses, and providing equal educational options for all deaf, hard-of-hearing, and deaf-blind students; and
- (3) Adding the Aloha State Association of the Deaf to the list of organizations to receive a certified copy of this measure.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 167, 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. 167, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Bunda).

SCRep. 2512 Education on S.R. No. 174

The purpose of this Resolution is to request the Superintendent of Education to convene a task force to develop more efficient procedures for maintaining discipline on school campuses and ensuring compliance with the compulsory education law.

Your Committee finds that two of the most pressing and urgent problems in the public schools are discipline and truancy. Discipline problems are evidenced by disruptive student behavior in class, physical violence on the school grounds, and vandalism of school buildings. Truancy problems are evidenced by the high incidence of status offenders in family court, those students who are picked up by police on school days during school hours for not being in school. Students who are disciplinary and truancy problems tend to be chronic offenders. Your Committee believes that the Department of Education should take the lead in solving or ameliorating these two problem areas. A task force is the initial step in this direction.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 174 and recommends that it be referred to the Committee on Judiciary.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Bunda).

SCRep. 2513 Education on S.C.R. No. 216

The purpose of this Concurrent Resolution is to request the Superintendent of Education to convene a task force to develop more efficient procedures for maintaining discipline on school campuses and ensuring compliance with the compulsory education law.

Your Committee finds that two of the most pressing and urgent problems in the public schools are discipline and truancy. Discipline problems are evidenced by disruptive student behavior in class, physical violence on the school grounds, and vandalism of school buildings. Truancy problems are evidenced by the high incidence of status offenders in family court, those students who are picked up by police on school days during school hours for not being in school. Students who are disciplinary and truancy problems tend to be chronic offenders. Your Committee believes that the Department of Education should take the lead in solving or ameliorating these two problem areas. A task force is the initial step in this direction.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 216 and recommends that it be referred to the Committee on Judiciary.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Bunda).

SCRep. 2514 (Joint) Education and Judiciary on S.R. No. 189

The purpose of this Resolution is to convene a task force made up of the members of the Hawaii State Student Council and the chairpersons of the district student councils to review the appropriateness of the methods used to select district student council representatives, Hawaii State Student council members, and the student member of the Board of Education.

This Resolution also directs the Legislative Reference Bureau to provide administrative support to the task force and, with the assistance of the Department of Education, to survey all public intermediate and high schools to determine the different methods used to select district student council representatives, and to survey all school student council representatives to determine the preferred methods of selecting district student council representatives, Hawaii State Student Council members, and the student member of the Board of Education.

Your Committees received testimony from the Department of Education expressing its intent to cooperate fully with the execution of the Resolution.

As affirmed by the records of votes of the members of your Committees on Education and Judiciary that are attached to this report, your Committees concur with the intent and purpose of S.R. No. 189 and recommend that it be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.
Ayes, 6. Noes, none. Excused, 3 (Bunda, Grauly, Matsuura).

SCRep. 2515 (Joint) Education and Judiciary on S.C.R. No. 231

The purpose of this Concurrent Resolution is to convene a task force made up of the members of the Hawaii State Student Council and the chairpersons of the district student councils to review the appropriateness of the methods used to select district student council representatives, Hawaii State Student council members, and the student member of the Board of Education.

This Concurrent Resolution also directs the Legislative Reference Bureau to provide administrative support to the task force and, with the assistance of the Department of Education, to survey all public intermediate and high schools to determine the different methods used to select district student council representatives, and to survey all school student council representatives to determine the preferred methods of selecting district student council representatives, Hawaii State Student Council members, and the student member of the Board of Education.

Your Committees received testimony from the Department of Education expressing its intent to cooperate fully with the execution of the Concurrent Resolution.

As affirmed by the records of votes of the members of your Committees on Education and Judiciary that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 231 and recommend that it be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.
Ayes, 6. Noes, none. Excused, 3 (Bunda, Grauly, Matsuura).

SCRep. 2516 Education on S.R. No. 223

The purpose of this Resolution is to urge the Department of Education to include adequate space and facilities in all its future school construction projects to accommodate after school programs that benefit students and the community.

Your Committee finds that in these austere financial times, resources for community service-oriented programs are often the first to be cutback or eliminated and although the cutbacks and eliminations are understandable, the reality is that many of these programs are vital to the well-being of the community it serves. Additionally, due to fiscal or locational constraints, these organizations often do not have a place to situate their programs, thereby costing the community in terms of negative long term social impacts.

Your Committee believes that school facilities could be utilized for such programs, providing communities with a place to congregate, learn, and grow together.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 223 and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Bunda).

SCRep. 2517 Education on S.C.R. No. 281

The purpose of this Concurrent Resolution is to urge the Department of Education to include adequate space and facilities in all its future school construction projects to accommodate after school programs that benefit students and the community.

Your Committee finds that in these austere financial times, resources for community service-oriented programs are often the first to be cutback or eliminated and although the cutbacks and eliminations are understandable, the reality is that many of these programs are vital to the well-being of the community it serves. Additionally, due to fiscal or locational constraints, these organizations often do not have a place to situate their programs, thereby costing the community in terms of negative long term social impacts.

Your Committee believes that school facilities could be utilized for such programs, providing communities with a place to congregate, learn, and grow together.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 281 and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Bunda).

SCRep. 2518 Health on S.R. No. 40

The purpose of this Resolution is to request the Department of Health to contract out mental health services in the County of Hawaii.

Your Committee finds that Hawaii County has a disproportionately high incidence of mental disease. According to the State Health Planning and Development Agency's report pursuant to Senate Concurrent Resolution No. 186, 1995, the current system of central administration of mental health services does not work in Hawaii county and has resulted in serious problems. The problems appear to be the normal difficulties associated with a large state bureaucracy trying to run a program to reach down to the individual level.

Your Committee further finds that contracting out mental health services would be far more efficient and expedient in delivering these services. This Resolution requests the Department of Health to do just that.

Your Committee has amended this Resolution by clarifying that the funding to be made available is to the Department of Health for the purchase of mental health services in Hawaii County.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 40, as amended herein, and recommends that it be referred to the Committee on Ways and Means, in the form attached hereto as S.R. No. 40, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kawamoto).

SCRep. 2519 Health on S.C.R. No. 53

The purpose of this Concurrent Resolution is to request the Department of Health to contract out mental health services in the County of Hawaii.

Your Committee finds that Hawaii County has a disproportionately high incidence of mental disease. According to the State Health Planning and Development Agency's report pursuant to Senate Concurrent Resolution No. 186, 1995, the current system of central administration of mental health services does not work in Hawaii county and has resulted in serious problems. The problems appear to be the normal difficulties associated with a large state bureaucracy trying to run a program to reach down to the individual level.

Your Committee further finds that contracting out mental health services would be far more efficient and expedient in delivering these services. This Concurrent Resolution requests the Department of Health to do just that.

Your Committee has amended this Concurrent Resolution by clarifying that the funding to be made available is to the Department of Health for the purchase of mental health services in Hawaii County.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 53, 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. 53, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kawamoto).

SCRep. 2520 Health on S.C.R. No. 104

The purpose of this Concurrent Resolution is to request the Department of Accounting and General Services to clean all air-conditioning filters in state buildings on a regular basis.

Your Committee finds that the United States Environmental Protection Agency has identified indoor air pollution as one of the most serious health threats facing the public. Buildings without natural ventilation often expose their occupants to concentrated levels of chemicals and contaminants emitted by synthetic as well as organic sources. Exposure to these substances may result in symptoms ranging from flu-like illnesses to other more serious problems.

According to the Department of Accounting and General Services, the actions requested in this Concurrent Resolution are already being implemented. In this regard, your Committee has amended this measure by amending its title and including several additional paragraphs that recognize the efforts of the Department and request a report on the resources needed to sustain the Department's ongoing maintenance program.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.C.R. No. 104, 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. 104, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kawamoto).

SCRep. 2521 (Joint) Health and Human Services on S.R. No. 101

The purpose of this Resolution is to request the State Health Planning and Development Agency to oversee the continued work of the Mental Health and Substance Abuse Committee with regard to addressing health and social problems on the Big Island.

Your Committees find that Hawaii County continues to experience the highest rates of health and substance abuse problems in the State.

Senate Concurrent Resolution No. 186 (1995), requested that the State Health Planning and Development Agency (SHPDA), with the advice and support of its Mental Health and Substance Abuse Committee, continue research regarding these pervasive health and human services problems on the Big Island and to make recommendations for improving relevant services.

As part of its report to the 1996 Legislature, the Mental Health and Substance Abuse Committee, under the oversight of SHPDA, listed seven specific problems with the current service delivery system on the Big Island and corresponding recommendations to begin to address these problems. The Committee also acknowledged that other changes are necessary and expressed a desire to continue gathering additional data to make further substantive recommendations to the Legislature.

Your Committees strongly support this measure as a means of effectively addressing and attempting to remedy the disturbing health and human services problems on the Big Island.

Your Committees have made several technical, nonsubstantive amendments for purposes of style and clarity.

As affirmed by the records of votes of the members of your Committees on Health and Human Services that are attached to this report, your Committees concur with the intent and purpose of S.R. No. 101, as amended herein, and recommend that it be referred to the Committee on Ways and Means, in the form attached hereto as S.R. No. 101, S.D. 1.

Signed by the Chairmen on behalf of the Committees.
Ayes, 6. Noes, none. Excused, 2 (Aki, Kawamoto).

SCRep. 2522 (Joint) Health and Human Services on S.C.R. No. 129

The purpose of this Concurrent Resolution is to request the State Health Planning and Development Agency to oversee the continued work of the Mental Health and Substance Abuse Committee with regard to addressing health and social problems on the Big Island.

Your Committees find that Hawaii County continues to experience the highest rates of health and substance abuse problems in the State.

Senate Concurrent Resolution No. 186 (1995), requested that the State Health Planning and Development Agency (SHPDA), with the advice and support of its Mental Health and Substance Abuse Committee, continue research regarding these pervasive health and human services problems on the Big Island and to make recommendations for improving relevant services.

As part of its report to the 1996 Legislature, the Mental Health and Substance Abuse Committee, under the oversight of SHPDA, listed seven specific problems with the current service delivery system on the Big Island and corresponding recommendations to begin to address these problems. The Committee also acknowledged that other changes are necessary and expressed a desire to continue gathering additional data to make further substantive recommendations to the Legislature.

Your Committees strongly support this measure as a means of effectively addressing and attempting to remedy the disturbing health and human services problems on the Big Island.

Your Committees have made several technical, nonsubstantive amendments for purposes of style and clarity.

As affirmed by the records of votes of the members of your Committees on Health and Human Services that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 129, as amended herein, and recommend that it be referred to the Committee on Ways and Means, in the form attached hereto as S.C.R. No. 129, S.D. 1.

Signed by the Chairmen on behalf of the Committees.
Ayes, 6. Noes, none. Excused, 2 (Aki, Kawamoto).

SCRep. 2523 Health on S.C.R. No. 134

The purpose of this Concurrent Resolution is to request the Auditor to assess the social and financial impact of establishing mandatory insurance coverage for the treatment of mental illness, emotional disorders, and alcohol and substance abuse on the same basis as other medical illnesses, and to request the Auditor to report her findings and recommendations to the Legislature no later than twenty days prior to the convening of the 1997 Regular Session.

Your Committee believes that requiring insurance coverage for mental illness, emotional disorders, and alcohol and substance abuse comparable to that of other medical illnesses is in the best interests of the general public. Your Committee is convinced of the need for this measure by the testimony in support of this Concurrent Resolution from the Director of Health, Hawaii Nurses' Association, Hawaii Medical Association, Hawaii Psychiatric Medical Association, Hawaii Psychological Association, Mental Health Association in Hawaii, and United Self-Help.

Your Committee adopted the recommendations of the Hawaii Nurses' Association and amended the Concurrent Resolution by including a request that the Auditor conduct a study to assess the impact of including insurance coverage for services provided by advanced practice registered nurses and social workers in health plans if the study is required before such providers can be reimbursed. Your Committee also amended the title of the Concurrent Resolution to conform to the amendment and made technical, nonsubstantive changes for purposes of clarification.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 134, 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. 134, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kanno).

SCRep. 2524 Health on S.R. No. 123

The purpose of this Resolution is to request the Department of Health, in consultation with other state entities, to support, and collaborate and work with the Hawaii Health Foundation in its effort to develop and promote Hawaii as a destination center for health, and request that the Department report its plan to the Legislature no later than twenty days prior to the convening of the 1997 Regular Session.

Your Committee received strong testimonial support for this measure and believes that supporting the Hawaii Health Foundation will foster the development and promotion of the State as a world-class health and healing destination center.

Your Committee amended this Resolution by substituting the Department of Business, Economic Development, and Tourism in place of the Department of Health, as the lead agency in this effort. Your Committee also made technical, nonsubstantive changes to the Resolution for purposes of style and consistency.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.R. No. 123, as amended herein, and recommends that it be referred to the Committee on Economic Development, in the form attached hereto as S.R. No. 123, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, none.

SCRep. 2525 Health on S.C.R. No. 156

The purpose of this Concurrent Resolution is to request the Department of Health, in consultation with other state entities, to support, and collaborate and work with the Hawaii Health Foundation in its effort to develop and promote

Hawaii as a destination center for health, and request that the Department report its plan to the Legislature no later than twenty days prior to the convening of the 1997 Regular Session.

Your Committee received strong testimonial support for this measure and believes that supporting the Hawaii Health Foundation will foster the development and promotion of the State as a world-class health and healing destination center.

Your Committee amended this Concurrent Resolution by substituting the Department of Business, Economic Development, and Tourism in place of the Department of Health, as the lead agency in this effort. Your Committee also made technical, nonsubstantive changes to the Concurrent Resolution for purposes of style and consistency.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.C.R. No. 156, as amended herein, and recommends that it be referred to the Committee on Economic Development, in the form attached hereto as S.C.R. No. 156, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, none.

SCRep. 2526 (Joint) Health and Hawaiian Affairs on S.R. No. 149

The purpose of this resolution is to urge the Governor to reaffirm the trust responsibility of the State for improving the health status of Hawaiians to the highest possible level.

Your Committees find the health status of Hawaiians is deplorable, as evidenced by a high proportion of chronic diseases such as diabetes, obesity, high blood pressure, and cancer. Your Committees believe that the State has a trust obligation to Hawaiians to promote and maintain their good health.

The relative paucity of services to Hawaiians was studied, verified, and published in the report, "The Hui 'Imi Task Force for Hawaiian Services," which to date has not been implemented due to a shortage of state funding. This resolution seeks at least to reaffirm that trust responsibility of the State to Hawaiians in the area of health, by requesting the various state departments and private agencies to work to achieve improvement of the health of Hawaiians through various means, including collecting data and formulating an action plan for health care initiatives for Hawaiians.

Your Committees have amended this resolution by requesting Papa Ola Lokahi to finalize the action plan in collaboration with the Department of Health; by deleting "to the highest possible level" in the title; and by making technical, nonsubstantive amendments for clarity and style.

As affirmed by the records of votes of the members of your Committees on Health and Hawaiian Affairs that are attached to this report, your Committees concur with the intent and purpose of S.R. No. 149, as amended herein, and recommend that it be referred to the Committee on Ways and Means, in the form attached hereto as S.R. No. 149, S.D. 1.

Signed by the Chairmen on behalf of the Committees.
Ayes, 5. Noes, none. Excused, 2 (Graulty, Kawamoto).

SCRep. 2527 (Joint) Health and Hawaiian Affairs on S.C.R. No. 189

The purpose of this concurrent resolution is to urge the Governor to reaffirm the trust responsibility of the State for improving the health status of Hawaiians to the highest possible level.

Your Committees find the health status of Hawaiians is deplorable, as evidenced by a high proportion of chronic diseases such as diabetes, obesity, high blood pressure, and cancer. Your Committees believe that the State has a trust obligation to Hawaiians to promote and maintain their good health.

The relative paucity of services to Hawaiians was studied, verified, and published in the report, "The Hui 'Imi Task Force for Hawaiian Services," which to date has not been implemented due to a shortage of state funding. This concurrent resolution seeks at least to reaffirm that trust responsibility of the State to Hawaiians in the area of health, by requesting the various state departments and private agencies to work to achieve improvement of the health of Hawaiians through various means, including collecting data and formulating an action plan for health care initiatives for Hawaiians.

Your Committees have amended this concurrent resolution by requesting Papa Ola Lokahi to finalize the action plan in collaboration with the Department of Health; by deleting "to the highest possible level" in the title; and by making technical, nonsubstantive amendments for clarity and style.

As affirmed by the records of votes of the members of your Committees on Health and Hawaiian Affairs that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 189, as amended herein, and recommend that it be referred to the Committee on Ways and Means, in the form attached hereto as S.C.R. No. 189, S.D. 1.

Signed by the Chairmen on behalf of the Committees.
Ayes, 5. Noes, none. Excused, 2 (Graulty, Kawamoto).

SCRep. 2528 Health on S.C.R. No. 229

The purpose of this Concurrent Resolution is to request the Department of Health to institute through its Safe Drinking Water Branch a comprehensive public education program aimed at informing Hawaii's residents about drinking water

quality in the State and measures that can be taken to ensure the safety of drinking water flowing from the taps of individual residences.

Your Committee finds that drinking water data received last year did not adequately report usable information for determining the safety of drinking water. Your Committee further finds that the report was negligent by, among other things, failing to:

- (1) Supply well numbers that would indicate the location of the wells and the contents of the neighboring wells;
- (2) Indicate the findings by each individual lab;
- (3) Specify which Environmental Protection Agency test sensitivity the city and State actually used; and
- (4) List the specific toxins tested for.

Your Committee has amended the Concurrent Resolution also require the Department of Health to return to sensitive water treatment in the lowest possible parts per trillion.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 229, 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. 229, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kawamoto).

SCRep. 2529 (Joint Health and Human Services on S.C.R. No. 279)

The purposes of this Concurrent Resolution are to request:

- (1) The Department of Health to take a public sector leadership role to:
 - (A) Inspire and facilitate:
 - (i) Initiatives on teen pregnancy prevention; and
 - (ii) Collaboration among relevant public agencies on services to pregnant and parenting teens;
 - (B) Promote and integrate statewide planning and the implementation of solutions relating to teen pregnancy; and
 - (C) Collaborate in partnership with nonprofit agencies and other interested groups;
- (2) The Office of Children and Youth to continue its role in facilitating the removal of interdepartmental barriers to effective teen pregnancy prevention and teen parenting services;
- (3) All state agencies to work collaboratively with the Department of Health and partners in the nonprofit sector to carry out the intent of the Concurrent Resolution; and
- (4) The Department of Health to report back to the Legislature on the progress of public and private sector initiatives, and statewide planning and implementation of solutions relating to teen pregnancy no later than forty-five days prior to the convening of the 1997 Regular Session.

Your Committees received unanimous support for this Concurrent Resolution from all parties testifying on this measure. Your Committees amended the Concurrent Resolution by urging the Department of Health to collaborate with the Office of Children and Youth and the Office of Youth Services in its preparation of the report to the Legislature. Your Committees also made technical, nonsubstantive changes for purposes of style.

As affirmed by the records of votes of the members of your Committees on Health and Human Services that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 279, as amended herein, and recommend that it be referred to the Committee on Ways and Means, in the form attached hereto as S.C.R. No. 279, S.D. 1.

Signed by the Chairmen on behalf of the Committees.
Ayes, 7. Noes, none. Excused, 1 (Aki).

SCRep. 2530 Health on S.R. No. 226

The purpose of this Resolution is to request the Department of Health to form a panel to review the Hawaii Revised Statutes governing the confidentiality and allowable use of health care information to ascertain if there are sufficient safeguards to maintain the integrity of confidential health care information.

Your Committee finds that as the health industry evolves, more and more medical information is being stored and transferred electronically. Although there are special situations where individual health information may be needed or useful in research or public health monitoring activities and studies, electronic storage may offer new opportunities for unofficial or unauthorized access to this private information.

Your Committee further finds that while there are scant references in the Hawaii Revised Statutes to the use and protection of medical information, there is no comprehensive umbrella which clearly identifies an individual's right to privacy with respect to medical and health care information.

Your Committee supports this measure as a means of ensuring that there are sufficient safeguards to maintain the integrity of confidential health care information.

Your Committee has amended this measure by including professionals licensed under chapter 453 and 460, Hawaii Revised Statutes, on the panel, and by making several technical, nonsubstantive changes for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 226, as amended herein, and recommends that it be referred to the Committee on Judiciary, in the form attached hereto as S.R. No. 226, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kawamoto).

SCRep. 2531 Health on S.C.R. No. 285

The purpose of this Concurrent Resolution is to request the Department of Health to form a panel to review the Hawaii Revised Statutes governing the confidentiality and allowable use of health care information to ascertain if there are sufficient safeguards to maintain the integrity of confidential health care information.

Your Committee finds that as the health industry evolves, more and more medical information is being stored and transferred electronically. Although there are special situations where individual health information may be needed or useful in research or public health monitoring activities and studies, electronic storage may offer new opportunities for unofficial or unauthorized access to this private information.

Your Committee further finds that while there are scant references in the Hawaii Revised Statutes to the use and protection of medical information, there is no comprehensive umbrella which clearly identifies an individual's right to privacy with respect to medical and health care information.

Your Committee supports this measure as a means of ensuring that there are sufficient safeguards to maintain the integrity of confidential health care information.

Your Committee has amended this measure by including professionals licensed under chapter 453 and 460, Hawaii Revised Statutes, on the panel, and by making several technical, nonsubstantive changes for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 285, as amended herein, and recommends that it be referred to the Committee on Judiciary, in the form attached hereto as S.C.R. No. 285, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kawamoto).

SCRep. 2532 Ecology and Environmental Protection on S.R. No. 56

The purpose of this Resolution is to request the Department of Land and Natural Resources ("DLNR") to examine the merits of constructing catchment basins or buffers along waterways to catch debris and sediment and prevent their runoff into the ocean, and to request a report of findings and prior to the convening of the 1997 Regular Session.

Your Committee recognizes the budgetary difficulties that this Resolution would impose on the DLNR and amended the measure instead to request the DLNR to review existing laws and administrative rules for the purpose of strengthening the prohibition against dumping debris, garbage, waste, or other materials in or near streams and rivers. Your Committee further amended this measure by requesting the DLNR to make recommendations for facilitating enforcement of the State's littering laws and increasing the penalties for violating such laws.

As affirmed by the record of votes of the members of your Committee on Ecology and Environmental Protection that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 56, as amended herein, and recommends that it be referred to the Committee on Planning, Land and Water Use Management, in the form attached hereto as S.R. No. 56, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Chumbley, Levin).

SCRep. 2533 Ecology and Environmental Protection on S.C.R. No. 79

The purpose of this Concurrent Resolution is to request the Department of Land and Natural Resources ("DLNR") to examine the merits of constructing catchment basins or buffers along waterways to catch debris and sediment and prevent their runoff into the ocean, and to request a report of findings and prior to the convening of the 1997 Regular Session.

Your Committee recognizes the budgetary difficulties that this Concurrent Resolution would impose on the DLNR and amended the measure instead to request the DLNR to review existing laws and administrative rules for the purpose of strengthening the prohibition against dumping debris, garbage, waste, or other materials in or near streams and rivers. Your Committee further amended this measure by requesting the DLNR to make recommendations for facilitating enforcement of the State's littering laws and increasing the penalties for violating such laws.

As affirmed by the record of votes of the members of your Committee on Ecology and Environmental Protection that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 79, as amended herein, and recommends that it be referred to the Committee on Planning, Land and Water Use Management, in the form attached hereto as S.C.R. No. 79, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Chumbley, Levin).

SCRep. 2534 Ecology and Environmental Protection on S.R. No. 74

The purpose of this Resolution is to request Hawaii's congressional delegation to introduce appropriate legislation to achieve long-term protection and sustainability of salmon in the Pacific Northwest, focusing on rehabilitation to protect existing ecosystems and to encourage natural regenerative processes.

Your Committee finds that high level studies by the National Research Council support the need for the protection of salmon in the Pacific Northwest.

Your Committee further finds that a similar measure was passed by the National Wildlife Federation at its national meeting held on March 1 of this year that asked Congress to support efforts to restore the salmon.

As affirmed by the record of votes of the members of your Committee on Ecology and Environmental Protection that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 74 and recommends that it be referred to the Committee on Transportation and Government Affairs.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Aki, Ikeda).

SCRep. 2535 Ecology and Environmental Protection on S.C.R. No. 98

The purpose of this Concurrent Resolution is to request Hawaii's congressional delegation to introduce appropriate legislation to achieve long-term protection and sustainability of salmon in the Pacific Northwest, focusing on rehabilitation to protect existing ecosystems and to encourage natural regenerative processes.

Your Committee finds that high level studies by the National Research Council support the need for the protection of salmon in the Pacific Northwest.

Your Committee further finds that a similar measure was passed by the National Wildlife Federation at its national meeting held on March 1 of this year that asked Congress to support efforts to restore the salmon.

As affirmed by the record of votes of the members of your Committee on Ecology and Environmental Protection that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 98 and recommends that it be referred to the Committee on Transportation and Government Affairs.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Aki, Ikeda).

SCRep. 2536 Ecology and Environmental Protection on S.R. No. 78

The purpose of this Resolution is to request that the Department of Land and Natural Resources provide stricter enforcement of existing boating rules to ensure protection of Hawaii's sea turtles.

The measure also requests the Department of Land and Natural Resources to study the impact of increased boating activities in areas where sea turtles are known to live and to initiate appropriate rule changes or recommend proposed legislation to ensure protection of sea turtles.

Your Committee finds that Hawaii's waters are home to the green sea turtle, listed by both the State and the federal government as threatened, and the hawksbill turtle which is listed by both the State and the federal government as an endangered species. Although such designations entitle these sea turtles to protection under state and federal law, Hawaii's sea turtles, nevertheless, continue to face a host of threats to their survival.

Because sea turtles inhabit nearshore waters that also are used extensively by boaters and thrill craft operators, the protection of these sea turtles fall under the jurisdiction of the Department of Land and Natural Resources pursuant to sections 200-24, 200-38, and 200-39, Hawaii Revised Statutes, which regulate boating activities in state waters, including designating times and areas in which thrill craft may be operated.

Your Committee recognizes the numerous threats to sea turtles and believes that the further regulation of boating and thrill craft are not the only activities that need to be monitored. In light of this belief, your Committee has amended the Resolution to request that the Department of Land and Natural Resources work with concerned community and environmental groups to develop a plan of action to protect the sea turtles.

As affirmed by the record of votes of the members of your Committee on Ecology and Environmental Protection that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 78, as amended herein, and recommends that it be referred to the Committee on Tourism and Recreation, in the form attached hereto as S.R. No. 78, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Aki, Ikeda).

SCRep. 2537 Ecology and Environmental Protection on S.C.R. No. 102

The purpose of this Concurrent Resolution is to request that the Department of Land and Natural Resources provide stricter enforcement of existing boating rules to ensure protection of Hawaii's sea turtles.

The measure also requests the Department of Land and Natural Resources to study the impact of increased boating activities in areas where sea turtles are known to live and to initiate appropriate rule changes or recommend proposed legislation to ensure protection of sea turtles.

Your Committee finds that Hawaii's waters are home to the green sea turtle, listed by both the State and the federal government as threatened, and the hawksbill turtle which is listed by both the State and the federal government as an endangered species. Although such designations entitle these sea turtles to protection under state and federal law, Hawaii's sea turtles, nevertheless, continue to face a host of threats to their survival.

Because sea turtles inhabit nearshore waters that also are used extensively by boaters and thrill craft operators, the protection of these sea turtles fall under the jurisdiction of the Department of Land and Natural Resources pursuant to sections 200-24, 200-38, and 200-39, Hawaii Revised Statutes, which regulate boating activities in state waters, including designating times and areas in which thrill craft may be operated.

Your Committee recognizes the numerous threats to sea turtles and believes that the further regulation of boating and thrill craft are not the only activities that need to be monitored. In light of this belief, your Committee has amended the Concurrent Resolution to request that the Department of Land and Natural Resources work with concerned community and environmental groups to develop a plan of action to protect the sea turtles.

As affirmed by the record of votes of the members of your Committee on Ecology and Environmental Protection that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 102, as amended herein, and recommends that it be referred to the Committee on Tourism and Recreation, in the form attached hereto as S.C.R. No. 102, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Aki, Ikeda).

SCRep. 2538 (Joint) Ecology and Environmental Protection and Agriculture, Labor and Employment on S.R. No. 140

The purpose of this Resolution is to request the Environmental Health Administration of the Department of Health to review all of its job classifications and position descriptions, evaluate the classifications and descriptions in the context of its revised goals and objectives, determine which positions are needed to further its mission as defined by its goals and objectives, and take all steps necessary to update its job classifications and position descriptions to facilitate the Department's implementation of its goals and objectives.

The Department is also requested to identify areas in the present civil service system which prevent or impede the Department from updating its job classifications and position descriptions; and to report its findings, conclusions, and progress to the Legislature no later than twenty days prior to the convening of the 1997 Regular Session.

Your Committees find that the current job classifications and position descriptions used by the Department are outdated and in conflict with present needs and are not reviewed or updated often enough to facilitate effective enforcement of the environmental laws. Your Committees are particularly concerned with recent employee layoffs which were hampered and complicated by outdated and inadequate job classifications and position descriptions.

Your Committees amended this measure by adding the Legislature's recognition of the role of the Department of Human Resources Development in the review and update of job classifications and position descriptions. The Department of Health is requested to cooperate with the Department of Human Resources Development and the Hawaii Government Employees Association in developing a procedure for making periodic and systematic reviews and updates of job classifications and position descriptions within the Environmental Health Administration; and the Department is requested to seek input from its employees in implementing the procedures.

As affirmed by the records of votes of the members of your Committees on Ecology and Environmental Protection and Agriculture, Labor, and Employment that are attached to this report, your Committees concur with the intent and purpose of S.R. No. 140, as amended herein, and recommend that it be referred to the Committee on Ways and Means, in the form attached hereto as S.R. No. 140, S.D. 1.

Signed by the Chairmen on behalf of the Committees.
Ayes, 6. Noes, none. Excused, 4 (Aki, Ikeda, Solomon, Taniguchi).

SCRep. 2539 (Joint) Ecology and Environmental Protection and Agriculture, Labor and Employment on S.C.R. No. 179

The purpose of this Concurrent Resolution is to request the Environmental Health Administration of the Department of Health to review all of its job classifications and position descriptions, evaluate the classifications and descriptions in the context of its revised goals and objectives, determine which positions are needed to further its mission as defined by its goals and objectives, and take all steps necessary to update its job classifications and position descriptions to facilitate the Department's implementation of its goals and objectives.

The Department is also requested to identify areas in the present civil service system which prevent or impede the Department from updating its job classifications and position descriptions; and to report its findings, conclusions, and progress to the Legislature no later than twenty days prior to the convening of the 1997 Regular Session.

Your Committees find that the current job classifications and position descriptions used by the Department are outdated and in conflict with present needs and are not reviewed or updated often enough to facilitate effective enforcement of the environmental laws. Your Committees are particularly concerned with recent employee layoffs which were hampered and complicated by outdated and inadequate job classifications and position descriptions.

Your Committees amended this measure by adding the Legislature's recognition of the role of the Department of Human Resources Development in the review and update of job classifications and position descriptions. The Department of Health is requested to cooperate with the Department of Human Resources Development and the Hawaii Government Employees Association in developing a procedure for making periodic and systematic reviews and updates of job classifications and position descriptions within the Environmental Health Administration; and the Department is requested to seek input from its employees in implementing the procedures.

As affirmed by the records of votes of the members of your Committees on Ecology and Environmental Protection and Agriculture, Labor, and Employment that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 179, as amended herein, and recommend that it be referred to the Committee on Ways and Means, in the form attached hereto as S.C.R. No. 179, S.D. 1.

Signed by the Chairmen on behalf of the Committees.
Ayes, 6. Noes, none. Excused, 4 (Aki, Ikeda, Solomon, Taniguchi).

SCRep. 2540 Ecology and Environmental Protection on S.R. No. 190

The purposes of this Resolution are to:

- (1) Request the Legislative Reference Bureau (LRB) to determine whether noise from construction pile driving activities can be more effectively reduced and to consider in regard to that determination:
 - (A) The legislation and administrative rules in other jurisdictions that address noise reduction from construction pile driving activities;
 - (B) The available equipment to reduce pile driver noise; and
 - (C) The standards and enforcement procedures in other jurisdictions; and
- (2) Request legislators representing neighborhoods surrounding the Convention Center construction site to organize public hearings on noise permits involving pile driving activities.

Testimony in support of this Resolution was submitted by the Department of Health, the Neighbors of the Ala Wai, and the Association of Apartment Owners of Atkinson Plaza. There was no testimony in opposition.

Your Committee believes that the problem of excessive noise from pile driving activities is statewide, and not limited to just the noise problems at the Convention Center construction site. Any solution, therefore, must address the problem on a broader basis. Your Committee, accordingly, has amended this Resolution to:

- (1) Clearly express its perception of this problem as being one at all construction sites where pile driving activity occurs; and
- (2) Deleting the request that individual legislators representing neighborhoods surrounding the Convention Center construction site organize public hearings since this problem is broader than just the Convention Center construction site and should be addressed by the Legislature as a whole once LRB completes its study.

As affirmed by the record of votes of the members of your Committee on Ecology and Environmental Protection that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 190, as amended herein, and recommends that it be referred to the Committee on Ways and Means, in the form attached hereto as S.R. No. 190, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Chumbley, Levin).

SCRep. 2541 Ecology and Environmental Protection on S.C.R. No. 232

The purposes of this Concurrent Resolution are to:

- (1) Request the Legislative Reference Bureau (LRB) to determine whether noise from construction pile driving activities can be more effectively reduced and to consider in regard to that determination:
 - (A) The legislation and administrative rules in other jurisdictions that address noise reduction from construction pile driving activities;
 - (B) The available equipment to reduce pile driver noise; and
 - (C) The standards and enforcement procedures in other jurisdictions; and

- (2) Request legislators representing neighborhoods surrounding the Convention Center construction site to organize public hearings on noise permits involving pile driving activities.

Testimony in support of this Concurrent Resolution was submitted by the Department of Health, the Neighbors of the Ala Wai, and the Association of Apartment Owners of Atkinson Plaza. There was no testimony in opposition.

Your Committee believes that the problem of excessive noise from pile driving activities is statewide, and not limited to just the noise problems at the Convention Center construction site. Any solution, therefore, must address the problem on a broader basis. Your Committee, accordingly, has amended this Concurrent Resolution to:

- (1) Clearly express its perception of this problem as being one at all construction sites where pile driving activity occurs; and
- (2) Deleting the request that individual legislators representing neighborhoods surrounding the Convention Center construction site organize public hearings since this problem is broader than just the Convention Center construction site and should be addressed by the Legislature as a whole once LRB completes its study.

As affirmed by the record of votes of the members of your Committee on Ecology and Environmental Protection that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 232, 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. 232, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Chumbley, Levin).

SCRep. 2542 Ecology and Environmental Protection on S.C.R. No. 241

The purpose of this Concurrent Resolution is to request that the Department of Health establish more stringent groundwater monitoring goals.

Your Committee finds that heavy chemical pesticide use in Hawaii has resulted in the infiltration of a wide array of chemicals into the groundwater supplies of the State. On occasion, drinking water samples from well sites throughout the State have tested positive for detectable amounts of chemicals.

Although your Committee notes that the State's groundwater supply is vitally important to the well-being of the population-at-large, it does not believe the measure as drafted will properly address the concerns of the public. Your Committee believes that a comprehensive review of the Department of Health's policies, procedures, and testing of the State's drinking water and groundwater is in order and, therefore, has amended the measure and its title to reflect this belief.

Under the amended measure, the Legislative Reference Bureau will be charged with the responsibility to conduct the review with the full cooperation of the Department of Health.

As affirmed by the record of votes of the members of your Committee on Ecology and Environmental Protection that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 241, 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. 241, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Aki, Ikeda).

SCRep. 2543 Education on S.C.R. No. 166

The purpose of this Concurrent Resolution is to urge the establishment of a public/private partnership for the coordination and delivery of early childhood education and care services.

Your Committee finds that there is a critical need for systematic coordination of early childhood education and care services within the State. Your Committee further finds that this coordination needs to involve both government agencies and the private sector in a collaborative effort to coalesce private and public sector resources.

Thus, upon further consideration and discussion, your Committee has amended this measure by:

- (1) Including the Departments of Labor and Industrial Relations and Business, Economic Development, and Tourism, and the Office of Children and Youth in the state government partnership;
- (2) Including businesses, parents, and members of the philanthropic community in the private sector partnership;
- (3) Referencing the Hawaii early childhood education and care coordinating committee's "Good Beginnings Master Plan" as the guiding reference document for the partnership;
- (4) Requesting that the alliance establish in each county a community council for community planning as described in the Master Plan;
- (5) Requesting that the private sector alliance proceed with soliciting private sector funds to coalesce with available public funds, in a manner prescribed by law, to implement the Master plan;

- (6) Requesting that all named state agencies receive a copy of the Concurrent Resolution; and
- (7) Making technical, nonsubstantive changes for the purposes of clarity and proper drafting style.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 166, 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. 166, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Bunda).

SCRep. 2544 Higher Education, Culture, and Arts on S.R. No. 29

The purpose of this Resolution is to direct the Department of Land and Natural Resources (DLNR) to develop a plan that includes design of a memorial commemorating the 1795 Battle of Nuuanu.

Your Committee finds that the Nuuanu Pali summit is significant to Hawaiian history as the site where Kamehameha the Great triumphed over Kalanikupule, establishing the foundation for the united kingdom of Hawaii and the era of peace which followed.

Your Committee further finds that the DLNR has three interpretive signs in production that will be installed at the lookout of the Nuuanu Pali State Wayside. These signs were designed and produced as part of the State Park's Interpretive Program ('Aina Ho'omalū). One of these signs discusses the historical significance of the Battle of Nuuanu.

Your Committee received testimony in support of the Resolution from Papa Kanaka o Pu'ukohola Heiau and the Office of Hawaiian Affairs.

Your Committee has amended the Resolution by including the State Foundation on Culture and Arts as one of the organizations to be consulted, and by requiring the DLNR plan to include funding from other sources.

As affirmed by the record of votes of the members of your Committee on Higher Education, Culture, and Arts that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 29, as amended herein, and recommends that it be referred to the Committee on Ways and Means, in the form attached hereto as S.R. No. 29, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Fernandes Salling, Fukunaga, Ikeda).

SCRep. 2545 Higher Education, Culture, and Arts on S.C.R. No. 42

The purpose of this Concurrent Resolution is to direct the Department of Land and Natural Resources (DLNR) to develop a plan that includes design of a memorial commemorating the 1795 Battle of Nuuanu.

Your Committee finds that the Nuuanu Pali summit is significant to Hawaiian history as the site where Kamehameha the Great triumphed over Kalanikupule, establishing the foundation for the united kingdom of Hawaii and the era of peace which followed.

Your Committee further finds that the DLNR has three interpretive signs in production that will be installed at the lookout of the Nuuanu Pali State Wayside. These signs were designed and produced as part of the State Park's Interpretive Program ('Aina Ho'omalū). One of these signs discusses the historical significance of the Battle of Nuuanu.

Your Committee received testimony in support of the Concurrent Resolution from Papa Kanaka o Pu'ukohola Heiau and the Office of Hawaiian Affairs.

Your Committee has amended the Concurrent Resolution by including the State Foundation on Culture and Arts as one of the organizations to be consulted, and by requiring the DLNR plan to include funding from other sources.

As affirmed by the record of votes of the members of your Committee on Higher Education, Culture, and Arts that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 42, 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. 42, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Fernandes Salling, Fukunaga, Ikeda).

SCRep. 2546 Higher Education, Culture, and Arts on S.R. No. 38

The purpose of this Resolution is to direct the Department of Land and Natural Resources (DLNR) to conduct a feasibility study for acquiring the Keakealaniwahine residence to complete the Keolonahihi State Cultural site.

Your Committee finds that the Keakealaniwahine residence is significant for its historical value as the residence of the highest ranking ali'i of her time on the island of Hawaii. Keakealaniwahine ruled the island for four generations before Kamehameha I. Keakealaniwahine and her mother are the only two women known to have been recognized as rulers of the island of Hawaii.

Your Committee further finds that Dillingham Partners are the current owners of the property and are willing to dispose of the property for a very reasonable sum. However, DLNR would prefer to negotiate a land exchange with Dillingham Partners in light of budget constraints. A land appraisal alone costs \$10,000.

Your Committee received testimony supporting the intent of the Resolution from DLNR and the Association of Hawaiian Civic Clubs.

Your Committee has amended the Resolution by:

- (1) Directing the DLNR to determine the feasibility of a land exchange as well as acquiring the Keakealaniwahine residence to complete the Keolonahihi State Cultural site and also reflecting this change in the title; and
- (2) Making nonsubstantive, technical amendments for style.

As affirmed by the record of votes of the members of your Committee on Higher Education, Culture, and Arts that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 38, as amended herein, and recommends that it be referred to the Committee on Ways and Means, in the form attached hereto as S.R. No. 38, S.D. 1.

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Fernandes Salling, Fukunaga, Ikeda).

SCRep. 2547 Higher Education, Culture, and Arts on S.C.R. No. 51

The purpose of this Concurrent Resolution is to direct the Department of Land and Natural Resources (DLNR) to conduct a feasibility study for acquiring the Keakealaniwahine residence to complete the Keolonahihi State Cultural site.

Your Committee finds that the Keakealaniwahine residence is significant for its historical value as the residence of the highest ranking ali'i of her time on the island of Hawaii. Keakealaniwahine ruled the island for four generations before Kamehameha I. Keakealaniwahine and her mother are the only two women known to have been recognized as rulers of the island of Hawaii.

Your Committee further finds that Dillingham Partners are the current owners of the property and are willing to dispose of the property for a very reasonable sum. However, DLNR would prefer to negotiate a land exchange with Dillingham Partners in light of budget constraints. A land appraisal alone costs \$10,000.

Your Committee received testimony supporting the intent of the Concurrent Resolution from DLNR and the Association of Hawaiian Civic Clubs.

Your Committee has amended the Concurrent Resolution by:

- (1) Directing the DLNR to determine the feasibility of a land exchange as well as acquiring the Keakealaniwahine residence to complete the Keolonahihi State Cultural site and also reflecting this change in the title; and
- (2) Making nonsubstantive, technical amendments for style.

As affirmed by the record of votes of the members of your Committee on Higher Education, Culture, and Arts that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 51, 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. 51, S.D. 1.

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Fernandes Salling, Fukunaga, Ikeda).

SCRep. 2548 Higher Education, Culture, and Arts on S.R. No. 88

The purpose of this Resolution is to urge the Department of Land and Natural Resources (DLNR) to continue its efforts to expand the Hawaii Main Street Program statewide, and to make it known that the Legislature fully supports the program's mission to revitalize and improve Main Street communities throughout the State.

Your Committee finds that the Hawaii Main Street Program (HMSP) provides leadership and assistance to communities, particularly smaller rural towns phasing out sugar and pineapple industries, with economic revitalization and heritage preservation.

Your Committee further finds that there are currently fifteen towns throughout the State utilizing the Main Street strategy. The actual restoration, renovation, and new construction of buildings and infrastructure along with small start up businesses and job retention have improved the economies of these towns. Your Committee notes that Makawao has over eighty owner-operated businesses which provide jobs for hundreds of upcountry residents.

Your Committee further finds that although the HMSP augments its operating budget with membership dues, fundraising activities, and in-kind donations, and the help of hundreds of volunteers, many of whom donate valuable professional services for Main Street projects, state funding is essential for the successful operation of the program.

Your Committee notes that the Department of Land and Natural Resources has continued to provide support to the HMSP by disseminating national and statewide information pertinent to the town programs and providing technical assistance in matters relating to historic preservation despite the elimination of funding.

Your Committee received testimony supporting the intent of the Resolution from the Hawaii Main Street Council, Wailuku Main Street Association, Inc., Makawao Main Street Association, Molokai Main Street Association, Pa'ia Main Street Association, Hale'iwa Main Street Business Association, and the Hilo Main Street Program.

Your Committee has amended the Resolution by adding a provision to urge the DLNR to continue to support the Hawaii Main Street Program, and by deleting references to expanding the program in light of the current fiscal condition of the State.

As affirmed by the record of votes of the members of your Committee on Higher Education, Culture, and Arts that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 88, as amended herein, and recommends that it be referred to the Committee on Ways and Means, in the form attached hereto as S.R. No. 88, S.D. 1.

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Fernandes Salling, Fukunaga, Ikeda).

SCRep. 2549 Higher Education, Culture, and Arts on S.C.R. No. 116

The purpose of this Concurrent Resolution is to urge the Department of Land and Natural Resources (DLNR) to continue its efforts to expand the Hawaii Main Street Program statewide, and to make it known that the Legislature fully supports the program's mission to revitalize and improve Main Street communities throughout the State.

Your Committee finds that the Hawaii Main Street Program (HMSP) provides leadership and assistance to communities, particularly smaller rural towns phasing out sugar and pineapple industries, with economic revitalization and heritage preservation.

Your Committee further finds that there are currently fifteen towns throughout the State utilizing the Main Street strategy. The actual restoration, renovation, and new construction of buildings and infrastructure along with small start up businesses and job retention have improved the economies of these towns. Your Committee notes that Makawao has over eighty owner-operated businesses which provide jobs for hundreds of upcountry residents.

Your Committee further finds that although the HMSP augments its operating budget with membership dues, fundraising activities, and in-kind donations, and the help of hundreds of volunteers, many of whom donate valuable professional services for Main Street projects, state funding is essential for the successful operation of the program.

Your Committee notes that the Department of Land and Natural Resources has continued to provide support to the HMSP by disseminating national and statewide information pertinent to the town programs and providing technical assistance in matters relating to historic preservation despite the elimination of funding.

Your Committee received testimony supporting the intent of the Concurrent Resolution from the Hawaii Main Street Council, Wailuku Main Street Association, Inc., Makawao Main Street Association, Molokai Main Street Association, Pa'ia Main Street Association, Hale'iwa Main Street Business Association, and the Hilo Main Street Program.

Your Committee has amended the Concurrent Resolution by adding a provision to urge the DLNR to continue to support the Hawaii Main Street Program, and by deleting references to expanding the program in light of the current fiscal condition of the State.

As affirmed by the record of votes of the members of your Committee on Higher Education, Culture, and Arts that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 116, 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. 116, S.D. 1.

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Fernandes Salling, Fukunaga, Ikeda).

SCRep. 2550 (Joint) Education and Higher Education, Culture, and Arts on S.R. No. 113

The purpose of this Resolution is to request that the Department of Education (DOE) develop a plan that provides support to all adults in need of remedial courses when the community colleges discontinue their basic remedial course curricula.

Your Committees find that in the Fall 1995 semester, two-thousand-two-hundred-ninety-seven community college students had enrolled in the adult basic education (ABE) credit courses. Approximately sixty percent of these enrollees were recent high school graduates. All had registered at a community college but were not able to pursue college-level programs until they improved their language or math skills, or both.

Your Committees further find that the community colleges will be discontinuing ABE credit courses after the Spring 1996 semester. ABE credit courses consist of reading fundamentals, writing fundamentals, and basic mathematics.

Your Committees believe that the ABE courses are comparable to those offered in the DOE's adult and community education program.

Your Committees received testimony supporting the intent of the Resolution from the DOE and the University of Hawaii.

Your Committees have amended the Resolution by requesting the DOE in conjunction with the University of Hawaii community colleges to develop a plan that includes the number of students seeking remedial courses and the number of students placed in the adult and community education program in the report to the Legislature. Your Committees have further amended the Resolution by deleting as inaccurate the provision describing the remedial student population as consisting mostly of persons who are low-income, born outside the United States, and non-English speaking.

As affirmed by the records of votes of the members of your Committees on Education and Higher Education, Culture, and Arts that are attached to this report, your Committees concur with the intent and purpose of S.R. No. 113, as amended herein, and recommend that it be referred to the Committee on Ways and Means, in the form attached hereto as S.R. No. 113, S.D. 1.

Signed by the Chairmen on behalf of the Committees.

Ayes, 9. Noes, none. Excused, 3 (Bunda, Fernandes Salling, Ikeda).

SCRep. 2551 (Joint) Education and Higher Education, Culture, and Arts on S.C.R. No. 144

The purpose of this Concurrent Resolution is to request that the Department of Education (DOE) develop a plan that provides support to all adults in need of remedial courses when the community colleges discontinue their basic remedial course curricula.

Your Committees find that in the Fall 1995 semester, two-thousand-two-hundred-ninety-seven community college students had enrolled in the adult basic education (ABE) credit courses. Approximately sixty percent of these enrollees were recent high school graduates. All had registered at a community college but were not able to pursue college-level programs until they improved their language or math skills, or both.

Your Committees further find that the community colleges will be discontinuing ABE credit courses after the Spring 1996 semester. ABE credit courses consist of reading fundamentals, writing fundamentals, and basic mathematics.

Your Committees believe that the ABE courses are comparable to those offered in the DOE's adult and community education program.

Your Committees received testimony supporting the intent of the Concurrent Resolution from the DOE and the University of Hawaii.

Your Committees have amended the Concurrent Resolution by requesting the DOE in conjunction with the University of Hawaii community colleges to develop a plan that includes the number of students seeking remedial courses and the number of students placed in the adult and community education program in the report to the Legislature. Your Committees have further amended the Concurrent Resolution by deleting as inaccurate the provision describing the remedial student population as consisting mostly of persons who are low-income, born outside the United States, and non-English speaking.

As affirmed by the records of votes of the members of your Committees on Education and Higher Education, Culture, and Arts that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 144, as amended herein, and recommend that it be referred to the Committee on Ways and Means, in the form attached hereto as S.C.R. No. 144, S.D. 1.

Signed by the Chairmen on behalf of the Committees.

Ayes, 9. Noes, none. Excused, 3 (Bunda, Fernandes Salling, Ikeda).

SCRep. 2552 (Joint) Higher Education, Culture, and Arts and Economic Development on S.R. No. 136

The purpose of this Resolution is to request the Board of Regents of the University of Hawaii to consider the establishment of an Education, Research, and Development Center at the Natural Energy Laboratory of Hawaii Authority (NELHA) in West Hawaii.

Your Committees find that the center is envisioned as being a hub for a variety of activities including education, marine, and energy sciences, and will be set up as a non-profit organization.

Your Committees further find that the University of Hawaii-Hilo (UH-Hilo) currently pays \$240,000 in annual rent to house its programs in West Hawaii. This location provides a home but does not contribute to enhancing the scope of the programs or create any long term equity. Your Committees believe locating the programs at NELHA would provide a cost effective temporary home for the UH-Hilo programs allowing the reduced rent savings to go into development of additional facilities and programs.

Your Committees further find that activities envisioned for the Research, Education, and Development Center will create a location for established scientists from around the world to assemble in Kona. These visitors could provide the students of UH-Hilo, West Hawaii, and the Hawaii community with access to innovative technologies, research, and employment opportunities.

Your Committees have received testimony in support of the Resolution from the Natural Energy Laboratory of Hawaii Authority and the University of Hawaii.

Your Committees have amended the Resolution by:

- (1) Adding a provision that states the Legislature's support of the transfer of portable classrooms if the Board of Regents determines the transfer to be feasible and if the classrooms are not required by the University of Hawaii, West Oahu;
- (2) Adding a provision that discusses the prohibitive cost of grading and clearing prospective sites and the possibility of getting the work done at no cost; and
- (3) Adding the NELHA as a recipient for a copy of the Resolution.

As affirmed by the records of votes of the members of your Committees on Higher Education, Culture, and Arts and Economic Development that are attached to this report, your Committees concur with the intent and purpose of S.R. No. 136, as amended herein, and recommend that it be referred to the Committee on Ways and Means, in the form attached hereto as S.R. No. 136, S.D. 1.

Signed by the Chairmen on behalf of the Committees.

Ayes, 7. Noes, none. Excused, 4 (Fernandes Salling, Fukunaga, Ikeda, Tam).

SCRep. 2553 (Joint) Higher Education, Culture, and Arts and Economic Development on S.C.R. No. 172

The purpose of this Concurrent Resolution is to request the Board of Regents of the University of Hawaii to consider the establishment of an Education, Research, and Development Center at the Natural Energy Laboratory of Hawaii Authority (NELHA) in West Hawaii.

Your Committees find that the center is envisioned as being a hub for a variety of activities including education, marine, and energy sciences, and will be set up as a non-profit organization.

Your Committees further find that the University of Hawaii-Hilo (UH-Hilo) currently pays \$240,000 in annual rent to house its programs in West Hawaii. This location provides a home but does not contribute to enhancing the scope of the programs or create any long term equity. Your Committees believe locating the programs at NELHA would provide a cost effective temporary home for the UH-Hilo programs allowing the reduced rent savings to go into development of additional facilities and programs.

Your Committees further find that activities envisioned for the Research, Education, and Development Center will create a location for established scientists from around the world to assemble in Kona. These visitors could provide the students of UH-Hilo, West Hawaii, and the Hawaii community with access to innovative technologies, research, and employment opportunities.

Your Committees have received testimony in support of the Concurrent Resolution from the Natural Energy Laboratory of Hawaii Authority and the University of Hawaii.

Your Committees have amended the Concurrent Resolution by:

- (1) Adding a provision that states the Legislature's support of the transfer of portable classrooms if the Board of Regents determines the transfer to be feasible and if the classrooms are not required by the University of Hawaii, West Oahu;
- (2) Adding a provision that discusses the prohibitive cost of grading and clearing prospective sites and the possibility of getting the work done at no cost; and
- (3) Adding the NELHA as a recipient for a copy of the Concurrent Resolution.

As affirmed by the records of votes of the members of your Committees on Higher Education, Culture, and Arts and Economic Development that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 172, as amended herein, and recommend that it be referred to the Committee on Ways and Means, in the form attached hereto as S.C.R. No. 172, S.D. 1.

Signed by the Chairmen on behalf of the Committees.

Ayes, 7. Noes, none. Excused, 4 (Fernandes Salling, Fukunaga, Ikeda, Tam).

SCRep. 2554 Higher Education, Culture, and Arts on S.R. No. 168

The purpose of this Resolution is to have the Department of Budget and Finance conduct a feasibility study on the establishment of a prepaid post-secondary education tuition program that would include the following information:

- (1) The degree of participation in the 1988 college savings bond issue;
- (2) Identification of successful models in other states and their applicability to Hawaii; and
- (3) Any state incentives such as tax considerations which could be given to participants in prepaid tuition programs.

Your Committee received testimony in support of the feasibility study from the University of Hawaii. The University felt the study would answer, among other things, questions on the overall benefits of prepaid post-secondary education tuition plans, the advantages and risks of these plans, and the merits of these plans in relation to other forms of savings and investments.

As affirmed by the record of votes of the members of your Committee on Higher Education, Culture, and Arts that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 168 and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Fernandes Salling, Ikeda).

SCRep. 2555 Higher Education, Culture, and Arts on S.C.R. No. 210

The purpose of this Concurrent Resolution is to have the Department of Budget and Finance conduct a feasibility study on the establishment of a prepaid post-secondary education tuition program that would include the following information:

- (1) The degree of participation in the 1988 college savings bond issue;
- (2) Identification of successful models in other states and their applicability to Hawaii; and
- (3) Any state incentives such as tax considerations which could be given to participants in prepaid tuition programs.

Your Committee received testimony in support of the feasibility study from the University of Hawaii. The University felt the study would answer, among other things, questions on the overall benefits of prepaid post-secondary education tuition plans, the advantages and risks of these plans, and the merits of these plans in relation to other forms of savings and investments.

As affirmed by the record of votes of the members of your Committee on Higher Education, Culture, and Arts that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 210 and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Fernandes Salling, Ikeda).

SCRep. 2556 (Joint) Higher Education, Culture, and Arts and Agriculture, Labor and Employment on S.R. No. 213

The purpose of this Resolution is to request the Legislative Reference Bureau to conduct a feasibility study on an optional retirement plan (ORP) for the University of Hawaii Board of Regents employees.

Your Committees find that an ORP is a much needed recruitment tool for attracting extraordinary academic faculty. An ORP would make the University more competitive with the more than one-thousand-seven-hundred public and private colleges and universities nationwide which offer some form of ORPs.

Your Committees received testimony in support of the Resolution from the University of Hawaii.

Your Committees have amended the Resolution by enlisting the cooperation of the Employees' Retirement System in assisting the Legislative Reference Bureau to conduct its study, and by adding the Administrator of the Employees' Retirement System as a recipient of the Resolution.

As affirmed by the records of votes of the members of your Committees on Higher Education, Culture, and Arts and Agriculture, Labor, and Employment that are attached to this report, your Committees concur with the intent and purpose of S.R. No. 213, as amended herein, and recommend that it be referred to the Committee on Ways and Means, in the form attached hereto as S.R. No. 213, S.D. 1.

Signed by the Chairmen on behalf of the Committees.
Ayes, 7. Noes, none. Excused, 4 (Fernandes Salling, Ikeda, Solomon, Anderson).

SCRep. 2557 (Joint) Higher Education, Culture, and Arts and Agriculture, Labor and Employment on S.C.R. No. 266

The purpose of this Concurrent Resolution is to request the Legislative Reference Bureau to conduct a feasibility study on an optional retirement plan (ORP) for the University of Hawaii Board of Regents employees.

Your Committees find that an ORP is a much needed recruitment tool for attracting extraordinary academic faculty. An ORP would make the University more competitive with the more than one-thousand-seven-hundred public and private colleges and universities nationwide which offer some form of ORPs.

Your Committees received testimony in support of the Concurrent Resolution from the University of Hawaii.

Your Committees have amended the Concurrent Resolution by enlisting the cooperation of the Employees' Retirement System in assisting the Legislative Reference Bureau to conduct its study, and by adding the Administrator of the Employees' Retirement System as a recipient of the Concurrent Resolution.

As affirmed by the records of votes of the members of your Committees on Higher Education, Culture, and Arts and Agriculture, Labor, and Employment that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 266, as amended herein, and recommend that it be referred to the Committee on Ways and Means, in the form attached hereto as S.C.R. No. 266, S.D. 1.

Signed by the Chairmen on behalf of the Committees.

Ayes, 7. Noes, none. Excused, 4 (Fernandes Salling, Ikeda, Solomon, Anderson).

SCRep. 2558 Higher Education, Culture, and Arts on H.B. No. 1741

The purpose of this bill is to preserve aviation artifacts by:

- (1) Adding a new section to chapter 6E, Hawaii Revised Statutes (HRS), that requires the Department of Land and Natural Resources to consult with appropriate organizations on all matters relating to aviation artifacts;
- (2) Adding a definition for aviation artifacts to section 6E-2, HRS;
- (3) Including aviation artifacts in sections 6E-3, 6E-6, 6E-8, 6E-11, and 6E-42; and
- (4) Amending section 6E-12, HRS, to make it unlawful to remove aviation artifacts from state lands or agencies within the jurisdiction of the State without obtaining a permit from the Department of Land and Natural Resources.

Your Committee received testimony in support of the bill from the Board of Land and Natural Resources, the United States Department of the Interior, National Park Service, and the Pacific Aerospace Museum.

Your Committee finds that the technology of aviation produces fragile artifacts that do not weather the years as easily as traditional historic sites, are easily destroyed, and are overlooked because of their comparatively recent introduction. Because most artifacts are less than fifty years old, they are not protected by federal historic preservation statutes.

Your Committee further finds that the State does not have the specialized historical knowledge nor the budget to hire specialists to staff the Department of Land and Natural Resources's Historic Preservation Department. Your Committee therefore supports the intent of the bill to consult with the Pacific Aerospace Museum. However, your Committee has deleted the specific reference to the Pacific Aerospace Museum to allow consultation with other appropriate non-profit historical and educational organizations.

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

As affirmed by the record of votes of the members of your Committee on Higher Education, Culture, and Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1741, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1741, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 2 (Fernandes Salling, Ikeda).

SCRep. 2559 (Joint) Higher Education, Culture, and Arts and Communications and Public Utilities on S.R. No. 132

The purpose of this Resolution is to develop a plan and a proposal for making the resources of the University of Hawaii's Hamilton Library and other library collections more widely available on a systemwide and statewide basis through modern distributed digital storage systems and telecommunications technologies.

Your Committees find that the university has already built a record of cooperation and accomplishment among the university's libraries and the university's Information and Technologies Services Division since the legislature passed the Telecommunications and Information Act of 1988. The 1988 Act funded the University of Hawaii Colorado Alliance of Research Libraries (UHCARL) system utilized by all University of Hawaii libraries, the Bishop Museum, and the Hawaii Medical Library. The Act also funded the conversion of all library card catalogs into machine readable data bases.

Your Committees further find that in February of this year one-hundred-seventy-thousand selects were recorded from the suite of on-line databases with subsequent searches following the selection at about ten times that number. Most of these selects were made on work stations within the University of Hawaii libraries while thirty-three-thousand selects originated from persons dialing into the system from remote locations.

Your Committees note that as more sources of information technologies are produced in digital versions, the university needs to adapt and utilize these technologies to preserve established collections now held in paper, film, and video formats, and incorporate the use of the new information technologies to promote shared use of these resources.

Your Committees further note that libraries throughout the nation are using distributed digital storage systems and advanced telecommunications services. The comprehensive Galileo project funded by the Georgia Assembly now serves all of the institutions of higher education within that state.

Your Committees received testimony in favor of this Resolution from the University of Hawaii.

As affirmed by the records of votes of the members of your Committees on Higher Education, Culture, and Arts and Communications and Public Utilities that are attached to this report, your Committees concur with the intent and purpose of S.R. No. 132 and recommend its adoption.

Signed by the Chairmen on behalf of the Committees.

Ayes, 8. Noes, none. Excused, 5 (Chumbley, Fernandes Salling, Ikeda, Kanno, Liu).

SCRep. 2560 (Joint) Higher Education, Culture, and Arts and Communications and Public Utilities on S.C.R. No. 168

The purpose of this Concurrent Resolution is to develop a plan and a proposal for making the resources of the University of Hawaii's Hamilton Library and other library collections more widely available on a systemwide and statewide basis through modern distributed digital storage systems and telecommunications technologies.

Your Committees find that the university has already built a record of cooperation and accomplishment among the university's libraries and the university's Information and Technologies Services Division since the legislature passed the Telecommunications and Information Act of 1988. The 1988 Act funded the University of Hawaii Colorado Alliance of Research Libraries (UHCARL) system utilized by all University of Hawaii libraries, the Bishop Museum, and the Hawaii Medical Library. The Act also funded the conversion of all library card catalogs into machine readable data bases.

Your Committees further find that in February of this year one-hundred-seventy-thousand selects were recorded from the suite of on-line databases with subsequent searches following the selection at about ten times that number. Most of these selects were made on work stations within the University of Hawaii libraries while thirty-three-thousand selects originated from persons dialing into the system from remote locations.

Your Committees note that as more sources of information technologies are produced in digital versions, the university needs to adapt and utilize these technologies to preserve established collections now held in paper, film, and video formats, and incorporate the use of the new information technologies to promote shared use of these resources.

Your Committees further note that libraries throughout the nation are using distributed digital storage systems and advanced telecommunications services. The comprehensive Galileo project funded by the Georgia Assembly now serves all of the institutions of higher education within that state.

Your Committees received testimony in favor of this Concurrent Resolution from the University of Hawaii.

As affirmed by the records of votes of the members of your Committees on Higher Education, Culture, and Arts and Communications and Public Utilities that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 168 and recommend its adoption.

Signed by the Chairmen on behalf of the Committees.

Ayes, 8. Noes, none. Excused, 5 (Chumbley, Fernandes Salling, Ikeda, Kanno, Liu).

SCRep. 2561 (Joint) Ecology and Environmental Protection and Judiciary on S.R. No. 141

The purpose of this Resolution is to request the judiciary to allocate a portion of environmental litigation awards to the State Environmental Response Revolving Fund.

Your Committees find that individuals who bring actions in court to enforce environmental protection laws and are awarded monetary damages by a court often realize a personal financial windfall from those damage awards. While using the courts to enforce the environmental laws is commendable, the reaping of large monetary gain thereby is questionable. This Resolution asks the state and federal courts to exercise their discretionary authority over awards to plaintiffs in environmental litigation to allocate a portion of those awards to be deposited into the State Environmental Response Revolving Fund, created by section 128D-2, Hawaii Revised Statutes, which is used for environmental response actions such as oil spills and hazardous substance releases.

Your Committees have amended this Resolution to clarify that the amount of the award to be allocated for deposit into the State Environmental Response Revolving Fund does not include that part of the award apportioned to reasonable attorneys fees and costs.

As affirmed by the records of votes of the members of your Committees on Ecology and Environmental Protection and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of S.R. No. 141, as amended herein, and recommend that it be referred to the Committee on Ways and Means, in the form attached hereto as S.R. No. 141, S.D. 1.

Signed by the Chairmen on behalf of the Committees.

Ayes, 7. Noes, 1 (Anderson). Excused, 2 (Aki, Ikeda).

SCRep. 2562 (Joint) Ecology and Environmental Protection and Judiciary on S.C.R. No. 180

The purpose of this Concurrent Resolution is to request the judiciary to allocate a portion of environmental litigation awards to the State Environmental Response Revolving Fund.

Your Committees find that individuals who bring actions in court to enforce environmental protection laws and are awarded monetary damages by a court often realize a personal financial windfall from those damage awards. While using the courts to enforce the environmental laws is commendable, the reaping of large monetary gain thereby is questionable. This Concurrent Resolution asks the state and federal courts to exercise their discretionary authority over awards to plaintiffs in environmental litigation to allocate a portion of those awards to be deposited into the State Environmental Response Revolving Fund, created by section 128D-2, Hawaii Revised Statutes, which is used for environmental response actions such as oil spills and hazardous substance releases.

Your Committees have amended this Concurrent Resolution to clarify that the amount of the award to be allocated for deposit into the State Environmental Response Revolving Fund does not include that part of the award apportioned to reasonable attorneys fees and costs.

As affirmed by the records of votes of the members of your Committees on Ecology and Environmental Protection and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of S.C.R. No. 180, as amended herein, and recommend that it be referred to the Committee on Ways and Means, in the form attached hereto as S.C.R. No. 180, S.D. 1.

Signed by the Chairmen on behalf of the Committees.
Ayes, 7. Noes, 1 (Anderson). Excused, 2 (Aki, Ikeda).

SCRep. 2563 Executive and Judicial Appointments on Gov. Msg. Nos. 190, 191, 192 and 193

Recommending that the Senate advise and consent to the nominations of the following:

DAVID SCOTT GILBERT, KENNETH T. ONO, LINDA MARIE ROSEN, M.D., PATRICIA JEAN DUKES and MIRIAM K. KAHALEKAI to the Emergency Medical Services Advisory Committee, terms to expire June 30, 2000 (Gov. Msg. No. 190);

ALAN L. GARSON, Ed.D., to the Advisory Commission on Employment and Human Resources, term to expire June 30, 1997 (Gov. Msg. No. 191);

LORI ANN C. LUM and GARY S. MIJO to the Hawaii Community Development Authority, terms to expire June 30, 2000 (Gov. Msg. No. 192); and

C. BARRY RALEIGH, Ph.D., to the Board of Directors, High Technology Development Corporation, term to expire June 30, 1997 (Gov. Msg. No. 193).

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Fernandes Salling).

SCRep. 2564 Executive and Judicial Appointments on Gov. Msg. Nos. 180, 181, 182, 183 and 184

Recommending that the Senate advise and consent to the nominations of the following:

MARIA A. UNEMORI to the State Board of Public Accountancy, term to expire June 30, 2000 (Gov. Msg. No. 180);

HERBERT J. HONDA to the Board of Agriculture, term to expire June 30, 2000 (Gov. Msg. No. 181);

ROGER J. RIOS to the Aquatic Life and Wildlife Advisory Committee, County of Maui, term to expire June 30, 2000 (Gov. Msg. No. 182);

MAUDE I. PANGANIBAN, D.C., to the State Board of Chiropractic Examiners, term to expire June 30, 2000 (Gov. Msg. No. 183); and

JACK LAW and ALLICYN HIKIDA TASAKA to the Civil Rights Commission, terms to expire June 30, 2000 (Gov. Msg. No. 184),

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Fernandes Salling).

SCRep. 2565 Executive and Judicial Appointments on Gov. Msg. Nos. 185, 186, 187, 188 and 189

Recommending that the Senate advise and consent to the nominations of the following:

JAMES T. SATO to the Civil Service commission, term to expire June 30, 1998 (Gov. Msg. No. 185);

HARVEY T. KODAMA and RICARDO MEDINA to the Civil Service Commission, terms to expire June 30, 2000 (Gov. Msg. No. 185);

ELAINE K. KIMURA to the Board of Cosmetology, term to expire June 30, 2000 (Gov. Msg. No. 186);

RICHARD R. CHAVES, BILLIE PUALANI KEAWEKANE and PHYLLIS ANN MEIGHEN to the Commission on Persons with Disabilities, terms to expire June 30, 2000 (Gov. Msg. No. 187);

BERT Y. MATSUOKA, BARBARA A. FABREY, THEODORE I. SAKAI and FRANK P. SU'A, JR., to the Hawaii Advisory Commission on Drug Abuse and Controlled Substances, terms to expire June 30, 2000 (Gov. Msg. No. 188); and

CARL T. TAKAMURA to the Education Commission of the States, term to expire June 30, 1998 (Gov. Msg. No. 189).

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Fernandes Salling).

SCRep. 2566 Executive and Judicial Appointments on Gov. Msg. Nos. 201, 202 and 203

Recommending that the Senate advise and consent to the nominations of the following:

MARCIA Y. SAKAI, Ph.D., to the Tax Review Commission, term to expire upon the adjournment sine die of the Second Regular Session of the Legislature (Gov. Msg. No. 201);

ANN T. ZANE and ROYCE S. FUKUNAGA to the Board of Certification of Operating Personnel in Water Treatment Plants, terms to expire June 30, 2000 (Gov. Msg. No. 202); and

GERALD L. DE MELLO to the Western Interstate Commission for Higher Education, term to expire June 30, 2000 (Gov. Msg. No. 203).

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Fernandes Salling).

SCRep. 2567 Transportation and Government Affairs on S.R. No. 28

The purpose of this Resolution is to request that the State Fire Council convene a task force to identify and delineate authority and responsibility for inspecting, testing, maintaining, and repairing all fire hydrants located on public or private property.

Testimony in support of the measure was submitted by Terry Carroll, a member of a neighborhood board, and by Jerry Martin. The Honolulu Board of Water Supply opposed the measure on the basis that it has jurisdiction of and maintains over 16,100 fire hydrants, and that it would be overly burdensome to assume expanded responsibility for additional fire hydrants.

Your Committee can appreciate the concerns of the Honolulu Board of Water Supply, but nonetheless believes that statewide safety concerns outweigh those concerns, especially as there is no proposal that the Board be responsible for all fire hydrants.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 28 and recommends its adoption.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Taniguchi).

SCRep. 2568 Transportation and Government Affairs on S.C.R. No. 40

The purpose of this Concurrent Resolution is to request that the State Fire Council convene a task force to identify and delineate authority and responsibility for inspecting, testing, maintaining, and repairing all fire hydrants located on public or private property.

Testimony in support of the measure was submitted by Terry Carroll, a member of a neighborhood board, and by Jerry Martin. The Honolulu Board of Water Supply opposed the measure on the basis that it has jurisdiction of and maintains over 16,100 fire hydrants, and that it would be overly burdensome to assume expanded responsibility for additional fire hydrants.

Your Committee can appreciate the concerns of the Honolulu Board of Water Supply, but nonetheless believes that statewide safety concerns outweigh those concerns, especially as there is no proposal that the Board be responsible for all fire hydrants.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 40 and recommends its adoption.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Taniguchi).

SCRep. 2569 Transportation and Government Affairs on S.R. No. 170

The purpose of this Resolution is to request the Governor to take all necessary actions to implement friendly exchange between Hawaii and the Prefecture of Hiroshima, and to afford to the Prefecture the privileges and honors Hawaii extends to its other sister-states and provinces.

Favorable testimony was submitted by the Governor of Hiroshima Prefecture, the Honolulu Japanese Chamber of Commerce, and the Honolulu Hiroshima Kenjin Kai.

Your Committee recognizes the historical and cultural ties between Hawaii and Japan beginning when Japanese laborers first emigrated to Hawaii. These ties should be maintained and strengthened particularly in today's economic and political climate. Fostering a commitment to international trade, education, and culture can only be beneficial to Hawaii.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 170 and recommends its adoption.

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 1 (Taniguchi).

SCRep. 2570 Transportation and Government Affairs on S.C.R. No. 212

The purpose of this Concurrent Resolution is to request the Governor to take all necessary actions to implement friendly exchange between Hawaii and the Prefecture of Hiroshima, and to afford to the Prefecture the privileges and honors Hawaii extends to its other sister-states and provinces.

Favorable testimony was submitted by the Governor of Hiroshima Prefecture, the Honolulu Japanese Chamber of Commerce, and the Honolulu Hiroshima Kenjin Kai.

Your Committee recognizes the historical and cultural ties between Hawaii and Japan beginning when Japanese laborers first emigrated to Hawaii. These ties should be maintained and strengthened particularly in today's economic and political climate. Fostering a commitment to international trade, education, and culture can only be beneficial to Hawaii.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 212 and recommends its adoption.

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 1 (Taniguchi).

SCRep. 2571 Executive and Judicial Appointments on Gov. Msg. Nos. 197, 198 and 199

Recommending that the Senate advise and consent to the nominations of the following:

RICHARD L. KLEMM and BLAKE VANCE, Ph.D., to the Advisory Committee on Pesticides, terms to expire June 30, 2000 (Gov. Msg. No. 197);

HELEN G. CHAPIN, Ph.D., and DARRELL M. OISHI to the State Post-Secondary Education Commission, terms to expire June 30, 2000 (Gov. Msg. No. 198);

PATRICK MCGUIGAN to the Radiologic Technology Board, term to expire June 30, 1999 (Gov. Msg. 199); and

ALBERT K. P. AH NEE and BERNADETTE M. PANG to the Radiologic Technology Board, terms to expire June 30, 2000 (Gov. Msg. No. 199).

Signed by the Chairman on behalf of the Committee.

Ayes, 6. Noes, none. Excused, 1 (Fernandes Salling).

SCRep. 2572 Housing on H.B. No. 3241

The purpose of this bill, as received by this Committee, is to amend the law relating to proxies of condominium associations by:

- (1) Clarifying that proxies sent by the association of apartment owners must list the statutory proxy options on the proxy form;
- (2) Eliminating the use of a proxy for quorum purposes only;
- (3) Deleting the requirement that the owner must be the one to print the name of the individual designated to receive the proxy power; and
- (4) Prohibiting the use of unmarked proxies for quorum purposes.

Testimony on this bill was received from the Real Estate Commission, Community Associations Institute, and a private citizen.

Section 514A-83.2(c), Hawaii Revised Statutes (HRS), was amended by Act 185, Session Laws of Hawaii 1995, to require that proxy forms list the four ways in which the homeowner could utilize the proxy. However, there have been problems and the Committee is aware that proxy forms developed by individual owners soliciting proxies have not always listed the four options. This omission evades the intent of the statute to inform and educate the owners of their proxy rights.

Your Committee places a high priority on the owner's informed consent. Listing all of the proxy options will notify and educate the owners of their rights, including the right to have their proxy used only for quorum purposes. Although Section 514A-83.2(c), HRS, mandates that proxies set forth all four options, it does not expressly invalidate proxies that fail to set forth all options. The failure to list all options should be sufficient reason to void the non-conforming proxy form.

Therefore, your Committee has amended this bill by:

- (1) Moving the language in Section 514A-83.2(c), HRS, which lists the four options and inserting it into 514A-83.2(a), HRS, so as to expressly provide that to be valid proxies must set forth the four options listed in the statute; and

- (2) Retaining the proxy option that permits the use of the proxy for quorum purposes.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3241, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3241, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.

Ayes, 3. Noes, none. Excused, 2 (Chumbley, Holt).

SCRep. 2573 Housing on H.B. No. 3970

The purpose of this bill is to require the purchaser of property, which is subject to the buy-back restrictions of section 201E-221, Hawaii Revised Statutes (HRS), to sell the property to a "qualified resident", as defined in section 201E-2, HRS, if the Housing Finance and Development Corporation (HFDC) does not exercise its option to buy-back the property under section 201E-221(a), HRS.

Your Committee received testimony in support of this bill from the HFDC, and the City and County of Honolulu. No testimony in opposition was received.

Your Committee believes that the restrictions on the resale of real property in HFDC sponsored or assisted projects are desirable to preserve existing and future inventories of affordable housing. This bill helps preserve the inventories of affordable housing by requiring the purchaser to sell the property to a "qualified buyer" if HFDC does not exercise its buy-back option.

Your Committee amended this bill by:

- (1) Adding a new section to amend section 201E-222(b), HRS, to change cross references to section 201E-221, HRS, since section 201E-221, HRS, has been reordered by the bill;
- (2) Clarifying that when HFDC purchases property by conveyance subject to existing mortgages and liens as provided under section 201E-221(a)(2)(B), HRS, it is not assuming the seller's mortgage obligations; and
- (3) Making other technical, nonsubstantive amendments for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3970, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3970, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 1 (Taniguchi).

SCRep. 2574 Transportation and Government Affairs on H.B. No. 2403

The purpose of this bill is to allow owners of mopeds to restore the original serial number, component part number, or identification mark of a moped and to possess such a moped when the restoration is authorized by the Director of Finance.

Your Committee finds that under existing law, at least one instance has occurred where an owner has had difficulty in reclaiming a stolen moped recovered by the police because the serial numbers were defaced by the thief.

This measure will provide specific statutory authorization for the restoration of moped serial numbers, comparable to statutory provisions governing motor vehicles and bicycles.

The Office of the Ombudsman testified in support, and the Department of Finance, City and County of Honolulu, had no objections to this measure.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2403 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 1 (Solomon).

SCRep. 2575 Transportation and Government Affairs on H.B. No. 2850

The purpose of this bill is to exempt state and county firefighters who drive firetrucks from commercial driver licensing requirements provided they are trained by either the federal, state, or county government.

Favorable testimony in support of the bill was submitted by the Training and Research Bureau of the Honolulu Fire Department, the Hawaii Fire Chiefs Association, the State Fire Council, the Department of Transportation, and the Fire Chief of the City and County of Honolulu. The testimony was generally to the effect that commercial licensing was unnecessary as fire departments are not commercial enterprises, and licensing was an unnecessary financial drain.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2850, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Solomon, Taniguchi).

SCRep. 2576 Transportation and Government Affairs on H.B. No. 3506

The purpose of this bill is to repeal the provision that prohibits the examiner of drivers from issuing a license to any person who has been ordered hospitalized or committed unless the Director of Health has certified that the person is mentally competent to operate a motor vehicle.

Your Committee finds that the provision unjustifiably discriminates against those who were involuntarily hospitalized or committed as a result of a mental illness. Your Committee believes that with proper treatment and support persons with mental illnesses are able to contribute to society.

Your Committee notes that the provision may conflict with chapter 28, Code of Federal Regulations, part 35.130(b)(8) of the Americans with Disabilities Act which prohibits any eligibility criteria that screen out individuals with disabilities from equally enjoying any service, program or activity, unless the criteria can be shown to be necessary.

Your Committee further notes that an existing provision, section 286-104(4), Hawaii Revised Statutes, effectively denies the issuance of driver's licenses to individuals who have a present mental or physical disability that prevents the individual from driving safely.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3506 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Solomon).

SCRep. 2577 Ecology and Environmental Protection on S.R. No. 98

The purpose of this Resolution is to request the Governor to declare April to be "Caring for the Earth Month"; and to extend a heartfelt mahalo to Earth-Friendly Schools Hawaii-International for its good work in promoting environmental information.

Your Committee recognizes that the Earth-Friendly Schools program, established to instill environmental ethics into the lives of our youth, has created the event, "Caring for the Earth Month", with organizations, schools, and businesses registering as participants and sponsors, with the intention of making it an annual event celebrated each April and leading to "Caring for the Earth Year" in the year 2000. Your Committee finds that the program has proven to be an effective, relevant, and meaningful program worthy of wider attention, support, and active participation.

As affirmed by the record of votes of the members of your Committee on Ecology and Environmental Protection that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 98 and recommends its adoption.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Chumbley, Levin).

SCRep. 2578 Ecology and Environmental Protection on S.C.R. No. 126

The purpose of this Concurrent Resolution is to request the Governor to declare April to be "Caring for the Earth Month"; and to extend a heartfelt mahalo to Earth-Friendly Schools Hawaii-International for its good work in promoting environmental information.

Your Committee recognizes that the Earth-Friendly Schools program, established to instill environmental ethics into the lives of our youth, has created the event, "Caring for the Earth Month", with organizations, schools, and businesses registering as participants and sponsors, with the intention of making it an annual event celebrated each April and leading to "Caring for the Earth Year" in the year 2000. Your Committee finds that the program has proven to be an effective, relevant, and meaningful program worthy of wider attention, support, and active participation.

As affirmed by the record of votes of the members of your Committee on Ecology and Environmental Protection that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 126 and recommends its adoption.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Chumbley, Levin).

SCRep. 2579 Ecology and Environmental Protection on S.R. No. 148

The purpose of this Resolution is to request the Department of Health to review the rules, procedures, and variance criteria relating to the requirements for upgrading from cesspools to individual wastewater systems in areas zoned for rural or agricultural uses, taking into consideration the concerns of landowners in rural or agricultural zones who own lots smaller than ten thousand square feet, and to report its findings and recommendations to the Legislature no later than twenty days before the Regular Session of 1997.

The Department of Health currently requires landowners using cesspools to dispose of wastewater, who apply for building permits for expansion of their homes and add to wastewater flow, to upgrade to a septic tank system or sewer hook-up.

Your Committee recognizes that septic systems are costly to install and many rural and agricultural areas of the State do not have convenient or economical access to sewer lines or systems. Your Committee also recognizes that many landowners in rural or agricultural zones who own lots smaller than ten thousand square feet do not have the financial means to install a septic system or pay for a costly hook-up to existing sewer lines or systems. Your Committee believes that this dilemma of small lot owners should be examined by the Department and accommodations made for them if possible.

As affirmed by the record of votes of the members of your Committee on Ecology and Environmental Protection that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 148 and recommends its adoption.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Chumbley, Levin).

SCRep. 2580 Ecology and Environmental Protection on S.C.R. No. 188

The purpose of this Concurrent Resolution is to request the Department of Health to review the rules, procedures, and variance criteria relating to the requirements for upgrading from cesspools to individual wastewater systems in areas zoned for rural or agricultural uses, taking into consideration the concerns of landowners in rural or agricultural zones who own lots smaller than ten thousand square feet, and to report its findings and recommendations to the Legislature no later than twenty days before the Regular Session of 1997.

The Department of Health currently requires landowners using cesspools to dispose of wastewater, who apply for building permits for expansion of their homes and add to wastewater flow, to upgrade to a septic tank system or sewer hook-up.

Your Committee recognizes that septic systems are costly to install and many rural and agricultural areas of the State do not have convenient or economical access to sewer lines or systems. Your Committee also recognizes that many landowners in rural or agricultural zones who own lots smaller than ten thousand square feet do not have the financial means to install a septic system or pay for a costly hook-up to existing sewer lines or systems. Your Committee believes that this dilemma of small lot owners should be examined by the Department and accommodations made for them if possible.

As affirmed by the record of votes of the members of your Committee on Ecology and Environmental Protection that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 188 and recommends its adoption.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Chumbley, Levin).

SCRep. 2581 Transportation and Government Affairs on H.B. No. 2358

The purpose of this bill is to prohibit an exemption from the Department of Transportation's (DOT) driver qualification rules for individuals driving a bus designed to carry more than ten passengers.

Your Committee finds that operators of buses designed to transport more than ten passengers, regardless of whether the bus is a school vehicle or not, should not be exempt from obtaining the required driver qualifications.

Your Committee has amended this measure by providing that in addition to receiving no exemption from DOT driver qualification rules, individuals driving buses designed to transport more than ten passengers shall also meet school bus driver qualifications.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2358, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2358, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Solomon, Taniguchi).

SCRep. 2582 Transportation and Government Affairs on H.B. No. 2384

The purpose of this bill is to facilitate the issuance of temporary instruction permits by:

- (1) Repealing the requirement that applicants for driver's instruction permits be tested within ten days of the filing of the application;
- (2) Extending the validity of temporary instruction permits from ninety to one-hundred-eighty days;

- (3) Prohibiting the renewal of temporary instruction permits by permittees for the operation of motorcycles or motor scooters unless the permittee has taken the examination for a motorcycle or motor scooter license at least once prior to the expiration of the temporary instruction permit; and
- (4) Prohibiting the holder of a temporary instruction permit for the operation of motorcycles or motor scooters from applying for another temporary instruction permit for a period of two weeks after each failure to meet the requirements of section 286-110, Hawaii Revised Statutes.

Testimony in support of the measure was received from the Department of Transportation and the Director of Finance of the City and County of Honolulu.

Your Committee believes that the proposed changes to the section pertaining to temporary instruction permits for motorcycles and motor scooters is not warranted at this time. Your Committee amended the bill by deleting the proposed amendments that applied to motorcycles and motor scooters, and by making a technical, nonsubstantive change for purposes of style.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2384, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2384, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Solomon).

SCRep. 2583 Transportation and Government Affairs on H.B. No. 2564

The purpose of this bill is to allow class 9 tour or cruise vessel licensees to serve and sell liquor for consumption only in state boat harbors if permitted under rules adopted by the liquor commission.

Under present law, liquor can only be sold for consumption by passengers on board while the vessel is in operation outside the port or dock of any island of the State. This bill, though restricting consumption in State harbors, would allow the service and sale of liquor when passengers are engaged in the process of embarking or disembarking.

The Department of Business, Economic Development, and Tourism, the Board of Land and Natural Resources (DLNR), the City and County of Honolulu Department of Finance (CITY), and Paradise Cruise, Ltd. (PARADISE), submitted testimony in support. DLNR suggested an amendment that would permit the sale and service of liquor in commercial harbors as well as state boat harbors. Both the CITY and PARADISE requested an amendment that would generally allow the sale and service of liquor while the cruise was in the process of embarking or disembarking without restriction to any type of harbor.

Your Committee has amended the bill by deleting its provisions and replacing them with the provisions of S.B. No 3160, S.D.1, in order to more broadly allow class 9 licensees to sell and serve liquor for consumption while the cruise is in the process of embarking or disembarking, if such service is approved by the county issuing the liquor license, without restriction to state boat harbors.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2564, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2564, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Solomon).

SCRep. 2584 Transportation and Government Affairs on H.B. No. 3182

The purpose of this bill is to exempt concessions operated at county botanic gardens and county parks by nonprofit corporations from the sealed bidding requirements applying to public concessions.

The Department of Transportation, the Hawaii Housing Authority, the City and County of Honolulu Department of Parks and Recreation, the President and Executive Director of the Friends of Waipahu Cultural Garden Park, submitted testimony in support of this bill.

Your Committee has amended the bill by deleting its provisions and replacing them with S.B. No. 2965, S.D. 1, in order to restrict the exemption to county botanic gardens or other county parks which are environmentally, culturally, historically, or operationally unique, and which are operated by nonprofit corporations incorporated under state law and operating under an agreement with the county solely for purposes of supporting county goals.

Additionally, your Committee has amended the bill to amend the definition of "concession" to include the privilege of operating a parking lot on state-owned public lands.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3182, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3182, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 1 (Solomon).

SCRep. 2585 (Joint) Agriculture, Labor and Employment and Planning, Land and Water Use Management on H.B. No. 4010

The purpose of this bill is to authorize the Department of Agriculture (DOA) to negotiate leases of public lands with certain persons who hold revocable permits on agricultural leases or who have held agricultural leases.

Your Committees find that some permittees of agricultural lands have occupied state lands for many years. Because their tenure is on a month-to-month basis, however, they lack security and are unable to obtain financing for farm improvements. As a result, they are prevented from putting these lands into more productive use. This bill allows the Department of Agriculture to negotiate long-term leases with certain permittees. The lands eligible for lease negotiations under this bill are limited to, among other things, lands set aside by the Governor's Executive Order to the DOA.

Your Committees have amended the bill by:

- (1) Amending the purpose section of the bill to reflect that its provisions comply with the objectives of the Hawaii State Plan;
- (2) Codifying section 3 of the bill along with the provisions of section 2; and
- (3) Deleting the July 1, 1998, repeal date.

Your Committees find that the State would realize greater returns from the long-term disposition of lands now under permit.

As affirmed by the records of votes of the members of your Committees on Agriculture, Labor, and Employment and Planning, Land and Water Use Management that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 4010, H.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 4010, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairmen on behalf of the Committees.
Ayes, 7. Noes, none. Excused, 4 (Holt, Ige, Solomon, Tanaka).

SCRep. 2586 Judiciary on H.B. No. 1531

The purpose of this bill is to require the counties and the Hawaii Housing Authority to notify the respective police chief prior to the removal of a derelict vehicle, only where the vehicle is reported stolen or is required for police investigation.

Testimony in support of this bill was received from the Department of Human Services-Hawaii Housing Authority and the Police Department and Department of Finance of the City and County of Honolulu.

Your Committee believes that the intent of this bill is to eliminate the redundant computer checks by county police chiefs and to clarify the procedures used by the Hawaii Housing Authority.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1531 and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Chumbley, McCartney, Tam).

SCRep. 2587 Judiciary on H.B. No. 2407

The purpose of this bill is to amend various provisions of the Hawaii Revised Statutes and Session Laws of Hawaii pursuant to chapter 23G, Hawaii Revised Statutes, to correct errors, update references, clarify language, and delete obsolete or unnecessary provisions.

Your Committee finds that all of the statutory amendments proposed by the measure are of a purely technical nature and either contain no substantive changes to the law, or, if they have any substantive effect, are done simply to correct the types of errors noted in this report.

Your Committee finds the reasons for the respective technical amendments made in the bill are as follows:

Section 1. The prefatory language of §2 of L 1995, c 187, purports to amend section 6E-8, HRS, in its entirety. However, only the title and subsection (a) of section 6E-8 are set forth in the section. The effect of Act 187 was to delete subsections (b) and (c) of section 6E-8. The omission of section 6E-8(b) and (c) appears to have occurred as the result of a simple oversight. The language of subsections (b) and (c) should therefore be restored.

Section 2. The prefatory language of §2(6) of L Sp 1995, c 10, purports to amend section 11-196, HRS, in its entirety. However, only the title and subsection (a) of section 11-196 are set forth in the section. The effect of Act 10, Special Session Laws of Hawaii 1995 was to delete subsection (b) of section 11-196. The omission of section 11-196(b) appears to have occurred as the result of a simple oversight. The language of subsection (b) should therefore be restored.

Section 3. Section 103D-102(b), HRS, contains five paragraphs. While the language of paragraphs (1) to (3) is consistent with the introductory language of subsection (b), paragraphs (4) and (5) are not. Paragraphs (4) and (5)

should be amended to be consistent grammatically with the introductory language of subsection (b). Additionally, paragraph (5) should be amended to eliminate the redundant reference to "governmental bodies" which is already established in the introductory language.

Section 4. Section 188-29(a)(1), HRS, allowed persons engaged in sport fishing to use throw nets with stretched mesh of not less than one and one-half inches until December 31, 1994, and mandated that thereafter, persons engaged in sport fishing must use throw nets with stretched mesh of not less than two inches. Subsection (a)(1) is now obsolete and redundant because the December 31, 1994 deadline is already past, and the two-inch stretched mesh requirement is stated in the opening clause of subsection (a).

Similarly, subsection (b) allows certain traps that are otherwise prohibited which are registered with the department of land and natural resources by October 1, 1989, to be used until June 30, 1994.

Section 188-29, HRS, should therefore be amended to delete subsection (a)(1), renumber the remaining paragraphs accordingly, and delete the proviso at the end of subsection (b).

Section 5. L 1995, c 164, §4 amended section 286-52, HRS, inter alia, by deleting the references to "certificate of registration" in subsections (b) and (l), leaving only the reference to "certificate of ownership" in the two subsections. Despite the deletion, however, subsections (b) and (l) still refer to two certificates. Subsections (b) and (l) should be amended to reflect the existence of only one certificate.

Section 6. L 1995, c 180, §4 amended section 342B-56(a) by adding the following sentence: "This subsection shall not apply before April 1, 1996 to violations of permits related to agricultural burning; provided further that the governor may extend this deadline for an additional three months to accomplish the purposes of this Act." Subsection (a) should be amended to delete the phrase "to accomplish the purposes of this Act" because after being merged into the larger context of HRS, it is unclear from the context as to what the phrase refers to.

Section 7. The definition of "reciprocal region" in section 412:5-400 presently refers to "the Commonwealth of the Northern Marianas". This reference should be changed to "the Commonwealth of the Northern Mariana Islands" to reflect the proper name of the commonwealth.

Section 8. The definition of "professional service" in section 415A-2, HRS, refers to section 554-2 as a chapter. The definition should be amended to appropriately refer to 554-2 as a section.

Section 9. As originally enacted by L 1985, c 259, pt of §1, section 415A-24 allowed a licensing authority to propound interrogatories to professional corporations. L 1987, c 135, §128 amended section 415A-24, in pertinent part, by deleting references to "licensing authority" and by allowing instead "the director" to direct interrogatories to professional corporations.

Section 415A-24, HRS, should be amended to: (1) change "its" to "the director's" in the second paragraph because while the term appropriately referred to the licensing authority, it does not appropriately refer to the director; and (2) make other technical, nonsubstantive changes.

Section 10. Section 415A-28, HRS, is amended by changing the section title from "Applications and existing corporations" to "Application to existing corporations". The title is amended to more accurately reflect the content of the section, i.e., the chapter's application to existing corporations.

Section 11. Section 425D-906, HRS, is amended by: (1) changing the section title from "Cancellation of registration" to "Certificate of withdrawal"; and (2) deleting the brackets around the section number. The title amendment is made to more accurately reflect the content of the section and to avoid possible confusion with section 425D-906.6, HRS, which is also entitled "Cancellation of registration". The deletion of the brackets around the section number ratifies the revisor's numbering of the section.

Section 12. Section 443B-3(c), HRS, is amended by: (1) deleting the cross reference to section 443B-7, which is repealed; and (2) changing the word "section" to "sections", for grammatical purposes.

Section 13. Section 448-15, HRS, is amended by deleting the obsolete cross-reference to chapter 416 and replacing it with the correct reference to chapter 415A. Chapter 416 was repealed by L 1987, c 135, §208.

Section 14. Section 468E-5(2), HRS, contains an obsolete reference to the American Speech and Hearing Association. The obsolete reference should be replaced with the current reference to the American Speech-Language-Hearing Association. Additionally, the second paragraph should also be reworded to replace the ambiguous reference "and/or" with one that is more precise.

Section 15. Section 576D-1, HRS, is amended by deleting the obsolete references to the "department of social services and housing" and to dates passed in the definition of "department".

Section 16. Section 576D-2, HRS, is amended by deleting the obsolete references to the department of social services and housing and to dates passed.

Section 17. Section 46-1.6(c), HRS, provides that: "If no homeowner insurance is provided pursuant to this section within two years of the effective date of this section, this section shall cease to be in effect"

The effective date of L 1993, c 339, which enacted section 46-1.6, was June 30, 1993. Section 46-1.6 should therefore be repealed as functus.

Section 18. Section 237D-3.5, HRS, should also be repealed as functus. Section 237D-3.5(l) provides that: "This section shall be repealed on January 1, 1995".

Section 19. Section 352D-8, HRS, should also be repealed as functus. Section 352D-8(a) provides that the office of youth services oversight committee (which apparently was never established) "shall terminate on June 30, 1995".

Section 20. L 1991, c 335, enacted chapter 42D, HRS, effective July 1, 1992. Chapter 42D, HRS, was amended by L 1992, c 194. Act 194 was approved by the governor on June 12, 1992, took effect on July 1, 1992, and is repealed on July 1, 1996. The sections enumerated in section 20 and amended by various other sections in Act 194 will be reenacted in the form in which they read on the day before the approval of the Act which is June 11, 1992 -- before the Act establishing chapter 42D in the first place ever took effect.

The amendment to section 42D-1, HRS, by L Sp 1993, c 8, §54, will survive the June 11, 1992, reenactment as provided by L 1995, c 118. However, the other sections of chapter 42D amended by Act 194 are to be reenacted in the form in which they read on June 11, 1992. Because chapter 42D was not in effect until July 1, 1992, there is an ambiguity as to what will be reenacted on June 11, 1992.

Accordingly, to ensure that chapter 42D is not lost, Act 194, section 20 should be amended to state that upon repeal on July 1, 1996, the amended sections of chapter 42D shall revert to the language as enacted by L 1991, c 335 and as provided by L 1995, c 118.

Additionally, section 20 should be amended to delete various sections of chapter 42D which were erroneously enumerated as amended by Act 194.

Section 21. Section 11-193, HRS, was amended by L Sp 1995, c 10, which made major changes to the campaign spending laws, and c 27, which created the office of elections.

In general, the amendments to section 11-193 by the two acts are as follows:

Act 10 deleted references to the lieutenant governor to specify that the duties to regulate campaign contributions and expenditures lie with the campaign spending commission and not the lieutenant governor.

Act 27 made a conforming amendment by substituting the term "chief election officer" for references to the "lieutenant governor" relative to the creation of the office of elections.

Also, section 13 of Act 27 provided that the amendment to section 11-193 shall be conformed to amendments made by other acts passed during the regular session of 1995. While no regular session act amended this section, Act 10 of the 1995 special session did. Act 10 was a reintroduction of HB 2094 of the regular session, a bill vetoed by the governor on June 9, 1995, because it passed final reading three days before the general appropriations bill, a violation of Article VII, Section 9 of the State Constitution.

Further, section 25 of Act 27 provided that the Act is repealed on June 30, 1999, and the HRS sections amended in that Act, section 11-193 included, are reenacted to the form in which they read on June 30, 1995. This provision will restore the lieutenant governor as the regulator of campaign contributions and expenditures, thereby undoing the express amendments made by Act 10.

To resolve this uncertainty, Act 27 should be amended to delete the amendment and references to section 11-193, thereby giving supersession to special session Act 10, in order to eliminate any ambiguity that may arise from the amendments to that section.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2407 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Chumbley, McCartney, Anderson).

SCRep. 2588 Judiciary on H.B. No. 2411

The purpose of the bill is to prohibit a liquor licensee from not only selling or furnishing, but also serving or allowing the consumption or possession of liquor to certain persons such as minors and those under the influence.

Your Committee received testimony in support of these prohibitions contained within the original Section 2 of the bill from the city and county of Honolulu department of finance, Maui and Kauai departments of liquor control, Mothers Against Drunk Driving and private individuals.

Current law only prohibits a liquor licensee from selling or serving liquor to these persons. However, there is also a need to clarify that the law should also prohibit the serving or consumption of liquor. Your Committee amended the bill by deleting references to "possession" as suggested by the Legislative Information Services of Hawaii, Inc. and the Hawaii Hotel Association.

As received by your Committee, the original Section 1 of the bill also attempted to make liquor licensees, who sell, serve, or furnish liquor to minors, or who allow the consumption or possession of liquor by minors, directly liable--via liquor or dram shop liability--to the minor for subsequent injuries or death to the minor.

No testimony in support of this section was received by your Committee. In contrast, the Legislative Information Services of Hawaii, Inc. and the Hawaii Hotel Association both strongly objected to the original bill's Section 1 which attempted to recognize liquor or dram shop liability to minors to which a licensee sells, serves, furnishes or allows the consumption of liquor.

Your Committee also amended the bill by deleting this section of the bill which attempted to create liquor or dram shop liability to these minors and which also attempted to legislatively overrule the Hawaii Supreme Court decision in *Winters v. Silver Fox Bar*, 71 Haw. 524 (1990). This case specifically refused to recognize liquor or dram shop liability to these minors. Your Committee believes that the Hawaii Supreme Court has correctly ruled on this subject which is also consistent with the Court's other rulings in the general area of liquor or dram shop liability.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2411, 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. 2411, H.D. 1, S.D. 2.

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Chumbley, McCartney, Tam).

SCRep. 2589 Judiciary on H.B. No. 2517

The purpose of the bill is to remove the requirement of corroboration as an element of proof in arrests and prosecutions for promoting prostitution.

Under present law, corroboration by more than one witness is required. The current statute not only stigmatizes certain witnesses who are predominately young females, but also provides a legal loophole for those promoting prostitution by making their conviction statutorily impossible when only one person, usually under the promoter's control, cooperates with law enforcement. The bill removes the corroboration requirement from the proof of this crime.

Your Committee received testimony in support of the bill from the Honolulu police department, state attorney general, Hawaii Hotel Association, and private individuals.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2517 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Chumbley, McCartney, Anderson).

SCRep. 2590 Judiciary on H.B. No. 2601

The purpose of this bill is to allow individuals to volunteer for jury duty by submitting their names to the clerk of the court for the respective circuit.

Your Committee received testimony from the Judiciary and the Office of the Public Defender. According to the testimony, two states allow individuals to volunteer for jury service, where the individuals are not on any source list and would otherwise be excluded from jury service.

Your Committee believes that the intent of this bill is to supplement the master list with additional names of potential jurors to summon, such that no person will be listed more than once on the master list.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2601, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Chumbley, McCartney, Anderson).

SCRep. 2591 Judiciary on H.B. No. 2603

The purpose of this bill is to clarify the qualifications of prospective jurors and the grounds for disqualification.

Testimony in support of the bill was received from the Judiciary and the Office of the Public Defender.

Your Committee received testimony in opposition to the bill from the Commission on Persons with Disabilities (Commission).

Your Committee finds that jurors must have the requisite ability to speak, read, and write in the English language, in order to fulfill the functions of a juror and to engage in jury deliberations in a meaningful way.

Upon further consideration, your Committee amended the bill, at the suggestion of the Commission, to provide that prospective jurors may not be automatically excluded from jury service based upon hearing, vision, or physical impairments alone.

Your Committee believes that this bill will extend the privilege and responsibility of jury service to the broadest segment of the population who have the capacity to serve as jurors.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2603, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2603, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Chumbley, McCartney, Anderson).

SCRep. 2592 Judiciary on H.B. No. 2620

The purpose of the bill is to permit a court to sentence a person who has been convicted of murder in the second degree to life imprisonment without the possibility of parole, if the person was previously convicted of murder.

The bill addresses the problem the prosecution encountered in Briones v. State, 74 Haw. 442 (1993), in attempting to obtain a conviction against the defendant for murder in the first degree for killing two persons. Under our current law as it was used in that case, the Hawaii Supreme Court held that the defendant must have had the prior intent or state of mind to kill two persons prior to the defendant actually committing the first murder, for a conviction for murder in the first degree which carries a sentence of life imprisonment without parole.

Your Committee believes that any two murders committed by the same person should enable a court to sentence the repeat murderer to life imprisonment without parole. The bill now clarifies that two murders, regardless of when the person formulated the intent or state of mind to kill the two persons, permits the court to sentence a person convicted of two murders to life imprisonment without parole.

Your Committee received testimony in support of the bill from the Honolulu police department and the Honolulu department of the prosecuting attorney.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2620, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (McCartney, Anderson).

SCRep. 2593 Judiciary on H.B. No. 2857

The purpose of this bill is to establish a statutory limit of \$10 which a payee or holder in due course of a dishonored check may impose as a service charge to the maker.

Testimony in support of this bill was received from the Legal Aid Society of Hawaii, Hawaii Collectors Association, Legislative Information Services of Hawaii, Liberty House, and VeriCheck.

Your Committee finds that setting a statutory limit will benefit consumers and businesses by providing a consistent and predictable service charge for returned checks, as opposed to allowing individual merchants to establish the fee.

Upon further consideration, your Committee amended the bill to provide for ten-day notice requirement prior to the filing suit by expressly referring to section 490:3-506(a)(1), Hawaii Revised Statutes, and to change the effective date to July 1, 1996.

Your Committee believes that it is in the public interest to set a statutory limit for dishonored checks.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2857, 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. 2857, H.D. 1, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Chumbley, McCartney, Anderson).

SCRep. 2594 Judiciary on H.B. No. 2868

The purpose of the bill is to reduce the maximum prison term from one year to thirty days for first and second time violations of the motor vehicle licensing provisions contained within Sections 286-102, 286-122, 286-130, 286-131, 286-132, 286-133, and 286-134 of the Traffic Code.

The bill retains a maximum term of imprisonment of not more than one year for persons with two or more prior convictions for these motor vehicle licensing offenses in a five year period.

Reducing the maximum prison terms to thirty days for first and second time offenses will eliminate jury demands for these offenses. Your Committee believes that eliminating jury trials in these cases is appropriate for what are basically traffic offenses, and further believes that judicial resources will be conserved.

Your Committee amended the bill by revising the general Traffic Code penalty section, §291C-161, Hawaii Revised Statutes, which provided for enhanced penalties for a second, third, or subsequent traffic violation committed within one year.

The amendment was recommended by the judiciary with their testimony that the amendments will enable the courts to impose the appropriate penalties based upon the motorists record, which is available in court, but is not available to the police officer at the time the citation is issued; however, your Committee increased the fines to \$500 instead of the judiciary's suggested \$350 amounts.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2868, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2868, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (McCartney, Anderson).

SCRep. 2595 Judiciary on H.B. No. 2896

The purpose of this bill is to limit the liability of a notary public to the failure to perform a notarial act and to provide immunity from liability for statements contained in a notarized document.

Testimony in support of the bill was received from the Attorney General and the City and County of Honolulu, Department of Personnel Services.

Your Committee finds that notaries should not be responsible for the substantive content of documents, as the verification of the accuracy or truthfulness of a document exceeds the scope of their duties.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2896, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Chumbley, McCartney, Anderson).

SCRep. 2596 Judiciary on H.B. No. 2957

The purpose of the bill is to authorize phlebotomists to draw blood for alcohol or drug testing, if the phlebotomist is duly qualified by the director of a clinical laboratory licensed by the State.

Your Committee believes phlebotomists by training are qualified to take these blood samples and the drawing of blood for an alcohol or drug test is a relatively simple procedure. The omission of phlebotomists from Act 197, Session Laws 1995, appears to have been an oversight.

Your Committee received testimony in support of the bill from the honolulu police department, Mothers Against Drunk Driving, and Healthcare Association of Hawaii.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2957, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (McCartney, Matsuura, Anderson).

SCRep. 2597 Judiciary on H.B. No. 2975

The purpose of the bill is to increase the penalties for class A, B, and C possession or distribution of the dangerous drug methamphetamine.

Your Committee received testimony in support of the bill from the honolulu police department, honolulu department of the prosecuting attorney, and private individuals.

These honolulu police department and honolulu department of the prosecuting attorney testified that methamphetamine is commonly found in crystalline form and is known in street vernacular as "ice" or "batu". Since the components of methamphetamine contain ingredients which are psychoactive in nature, the drug has a tendency to cause hallucinations and paranoia which often leads to violence.

These organizations also testified that in the last few years, there have been several highly publicized cases where the use of ice has caused violence, death, and tragedy. They have even noticed a correlation between ice use and other violent crimes such as arson and domestic violence.

Your Committee believes the bill's stiffer penalties for methamphetamine possession or distribution addresses these problems, as this drug has very serious implications for individual, family, and community safety.

Your Committee amended the bill by repealing the provisions in Act 229, Session Laws 1994, which allowed a class A drug offender to receive a sentence of probation. Your Committee has reconsidered its previous position and believes that this class of criminal must not receive sentences of probation.

Your Committee believes that drug offenses are one of the most serious problems in our state. Under current law, class A drug offenses are the only class A crimes which are probationable, yet, your Committee believes that these drug crimes are one of the most serious of class A crimes.

Class A drug offenses involve the distribution or possession of large quantities of the most dangerous drugs. These crimes primarily involve drug dealers whose activities have ruined many lives in our communities and many families in our state. The proliferation of drugs has also had a direct and significant impact on the increase in and the severity of both violent crimes and property crimes.

Your Committee also amended the mandatory term of imprisonment in Section 4 of the bill to be not less than thirty days and not greater than two and one-half years. This amendment of the class C felony sentence levels from three years to two and one-half years is consistent with the levels of mandatory terms of imprisonment provided for in Sections 2 and 3 for both class A and class B felonies.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2975, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2975, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Chumbley, McCartney, Anderson).

SCRep. 2598 Judiciary on H.B. No. 3046

The purpose of the bill, as received by your Committee, was to include within the offense of criminal property damage in the first degree, the intentional damage to the property of another in an amount exceeding \$20,000.

Your Committee used the bill as a vehicle to (1) include the crime of unauthorized control of propelled vehicle in the repeat offender sentencing statute; (2) to prevent repeat drug and property criminals from receiving lesser mandatory minimum sentences of imprisonment; (3) to prohibit repeat offenders from receiving parole prior to the expiration of the mandatory minimum term of imprisonment; (4) to remove the element of "trespass" from the offense of sexual assault in the fourth degree; and (5) to create a new section called "unauthorized entry into motor vehicle" which becomes a class C felony.

Your Committee used the bill to address the serious problems with drug offenses, and vehicular and property theft in our state. The contents of this amended bill were basically contained within SB2547, S.D. 1, which passed third reading in the Senate, but was not heard by the House.

The bill was amended by removing the ability for repeat drug and property criminals to receive sentences of less than the mandatory minimum term of imprisonment. Under current law, if the court finds "strong mitigating circumstances", the court may sentence a person to less than the mandatory minimum term of imprisonment, even when the person is a repeat drug or property crime offender.

Your Committee finds that this exception has unnecessarily watered down these repeat offender sentencing provisions for repeat drug and property criminals. The bill was also amended to prevent repeat offenders from being paroled prior to the expiration of their mandatory minimum term of imprisonment.

Your Committee also finds that vehicle thefts and property taken from these vehicles has become a serious problem in our state. This type of theft affects a significant number of residents and visitors. The bill was amended to include the crime of unauthorized control of propelled vehicle to the list of class C felonies subject to repeat offender sentencing. The bill was also amended by adding a new section to the penal code entitled "Unauthorized Entry into Motor Vehicle". Because of the significant increase in the number of car thefts, your committee made this offense a class C felony.

The bill was also amended by removing "trespass" as a necessary element in the offense of sexual assault in the fourth degree. Under current law, this crime is committed when a "...person knowingly trespasses on property for the purpose of subjecting another person to surreptitious surveillance for the sexual gratification of the actor".

The current requirement of a trespass provides an unnecessary and inconsistent element of proof for what is purely a sex offense and distracts from the nature of the offense. Your Committee believes that the other current elements such as "surreptitious surveillance" and "for the sexual gratification of the actor" provide the basis requisite elements of proof for this type of offense. Whether a person trespasses or not is immaterial to the commission of this offense.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3046, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3046, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Chumbley, McCartney, Anderson).

SCRep. 2599 Judiciary on H.B. No. 3047

The purpose of the bill is to increase the property damage thresholds to \$1500 for criminal property damage in the second degree and to \$500 for criminal property damage in the third degree.

The present dollar values assigned to criminal property damage in the second and third degrees still reflect the intent and valuations assigned by the 1972 legislature at the time the measures were first passed into law when the penal code was first enacted in 1972.

Your Committee finds the present threshold values of \$500 for criminal property damage in the second degree, a class C felony, and \$100 for criminal property damage in the third degree, a misdemeanor, are too low at present levels. The dollar values assigned in 1972 do not correctly and modernly reflect the proper values for class C felony and misdemeanor property damage.

Your Committee received testimony in support of the bill from the Honolulu police department.

Your Committee amended the bill by making damage to property in excess of \$20,000 criminal property damage in the first degree. Under current law, criminal property damage in the first degree can only be committed by intentionally damaging property and thereby recklessly placing another in danger of death or bodily injury. Criminal property damage in the first degree is a class B felony.

The amendment now permits prosecutions for damage to property in this large amount as class B felonies which is also consistent with other class B felony threshold amounts contained within other crimes in the penal code.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3047, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3047, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Chumbley, McCartney, Anderson).

SCRep. 2600 Judiciary on H.B. No. 3151

The purpose of the bill is to remove the requirement that a first-time offender of driving without a valid no-fault policy is required to obtain proof of financial responsibility.

If a previously convicted person is again convicted for driving without no-fault insurance a second time within a five year period, that person will then be required to maintain proof of financial responsibility.

Your Committee received testimony in support of the bill from the city department of finance, the office of the public defender, and the department of commerce and consumer affairs.

The department of commerce and consumer affairs testified that being required to maintain proof of financial responsibility in order to purchase automobile insurance may be economically unbearable, for a first-time offender, which would further prevent these people from obtaining no-fault insurance.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3151, H.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (McCartney, Matsuura, Anderson).

SCRep. 2601 Judiciary on H.B. No. 3243

The purpose of the bill, as received by your Committee, was to permit an owner of private agricultural property to destroy any dog which presents an imminent danger to any commercial livestock or domesticated animal.

Your Committee received testimony in opposition to the bill from the American Humane Society, Hawaiian Humane Society, Hawaii Island Humane Society, Kauai Humane Society, and private individuals. Testimony in support of the bill was received from the Hawaii Farm Bureau Federation.

Your Committee believes that dog owners need to take responsibility for their animals. At the same time, there is a need for the various humane societies to more effectively address the harm done to livestock by such animals. Your Committee is presently unable to determine the true extent of the problem and whether other less drastic and less dangerous options may be available.

Your Committee therefore amended the bill to create a task force on livestock and domesticated animals consisting of seven members comprised of representatives of the humane societies and the owners of livestock, to be chaired by the director of the department of agriculture, or his designee. The task force shall make recommendations for appropriate action twenty days prior to the convening of the next legislative session.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3243, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3243, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Tam).

SCRep. 2602 Judiciary on H.B. No. 3244

The purpose of the bill is to amend the definitions contained in the Money Laundering Act by replacing the word "state" with the word "jurisdiction".

Under the present Money Laundering Act's definitions of "specified unlawful activity" and "unlawful activity" the word "state" is used, which apparently and inadvertently limits the scope of the activities prohibited to those activities occurring only within our state.

Your Committee believes that replacing the word "state" with the word "jurisdiction" more accurately reflects that the Act's application also applies to those activities occurring within our state, the United States, and outside the United States.

Your Committee received testimony in support of the bill from the honolulu department of the prosecuting attorney. The honolulu police department also supported the bill.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3244 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Chumbley, McCartney, Anderson).

SCRep. 2603 Judiciary on H.B. No. 3346

The purpose of this bill is to establish a legal mechanism for a landowner to contest the validity of instruments which are recorded at the bureau of conveyances and the land court.

Testimony in support of this bill was received from the Attorney General, Department of Land and Natural Resources, the Judiciary, and GTE Hawaiian Tel.

According to the testimony, the bureau of conveyances and the land court have no discretionary authority to determine the validity of an instrument or to refuse the recordation of an instrument which meets the minimal format requirements. Thus, any instrument with original signatures that are properly notarized and with the legal property description is accepted for recordation.

Further, many liens have been filed against real property owned by government officials and employees, including the governor, state judges, agency directors, and government attorneys, without their knowledge or consent. Although the lien may be frivolous, it represents an encumbrance upon real property and thereby affects the landowner's ability to transfer title or to obtain title insurance or financing.

Your Committee believes that the intent of this bill is to protect the rights and interests of individual property owners by providing a means to expunge invalid nonconsensual common law liens.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3346, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (McCartney, Anderson).

SCRep. 2604 Judiciary on H.B. No. 3347

The purpose of this bill is to repeal the statutory rule of construction in section 1-18, Hawaii Revised Statutes, which makes "and" and "or" completely interchangeable.

Testimony in support of the bill was received from the Attorney General.

Your Committee finds that the drafters of bills purposefully choose the words "and" and "or" based upon whether the conjunctive or disjunctive meaning is intended. Thus, the existing statutory rule of construction which allows the interchangeable meaning of these words operates to defeat the legislative intent.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3347 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Chumbley, McCartney, Anderson).

SCRep. 2605 Judiciary on H.B. No. 3407

The purpose of this bill is to provide a uniform civil penalty for certain unfair and deceptive business practices which are regulated by the Department of Commerce and Consumer Affairs (Department).

Specifically, this bill amends the civil penalty provisions relating to the following sections of the Hawaii Revised Statutes (HRS): section 477E-5 governing civil penalties for violations of the Hawaii Fair Credit Extension Act of 1975;

section 481B-1 governing unsolicited goods and section 481B-4 containing the relevant penalty provision; section 481B-6 governing the sale of solar energy devices; and section 481B-11 governing refunds for sensitivity-awareness seminars.

Testimony in support of the bill was received from the Department.

Upon further consideration, your Committee amended the bill at the suggestion of the Department by substituting the word "shall" for "may" in the provision relating to unsolicited goods.

Your Committee believes that this amendment will clarify that compliance with the provisions relating to unfair and deceptive practices is mandatory.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3407, 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. 3407, H.D. 1, S.D. 2.

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Chumbley, McCartney, Anderson).

SCRep. 2606 Judiciary on H.B. No. 3412

The purpose of this bill is to repeal duplicative statutory language which affirmatively authorizes the director of the Office of Consumer Protection (OCP) to file an action on behalf of the public against any motor vehicle repair dealer, mechanic, or apprentice for violations of section 480-2, Hawaii Revised Statutes.

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

Your Committee finds that the OCP director is empowered in general to file actions for alleged violations by any business operating in Hawaii.

Your Committee is concerned that the existence of specific statutory authority to enforce violations against certain businesses may be erroneously construed as limiting or precluding OCP's enforcement authority in other regulated industries.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3412 and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Chumbley, McCartney, Anderson).

SCRep. 2607 Judiciary on H.B. No. 3416

The purpose of this bill is to delete the June 30, 1996 repeal date of Act 253, Session Laws of Hawaii (1993), which authorized the Regulated Industries Complaint Office (RICO) to issue administrative citations for ongoing unlicensed activities in professions subject to regulation by the Department of Commerce and Consumer Affairs (DCCA).

Your Committee finds that the administrative citation program serves the public interest by increasing RICO's ability to respond to unlicensed activity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3416 and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Chumbley, McCartney, Anderson).

SCRep. 2608 Judiciary on H.B. No. 3460

The purpose of this bill is to require the Department of Human Services to release the identity of certified foster parents and approved relative caregivers to any association, agency, or government entity which would be beneficial to the parents and caregivers, unless confidentiality is requested.

Testimony in support of this bill was received from the Department of Human Services.

Your Committee believes that the intent of this bill is to assist foster families by providing the names of those who may be able to provide assistance and to serve as a resource.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3460, H.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 2 (Chumbley, Tam).

SCRep. 2609 Judiciary on H.B. No. 3470

The purpose of this bill is to protect the identity of volunteers who serve as subject matter experts or consultants in the preparation and rating of state civil service applications and examinations.

Testimony in support of this bill was received from the Department of Human Resources Development (Department). According to the testimony, the Department uses the services of subject matter consultants in order to ensure the validity and fairness of the examination process and to comply with the Federal Uniform Guidelines on Employee Selection. Specifically, the consultants provide information about their specialty areas, perform job analysis, participate in examination development, and review applicant qualifications.

Because the consultants selected by the Department are typically incumbents or technical supervisors of the job positions being studied, the consultants frequently raise concerns about their vulnerability to coercion and pressure from applicants, peers, superiors, and others who are interested in influencing the outcome of an application review or test. Without the Department's promise of confidentiality, many consultants have indicated that they will no longer volunteer their services.

Your Committee finds that the volunteer subject matter consultants perform an essential service to the Department, such that the disclosure of the names and backgrounds of the consultants may frustrate the Department's ability to comply with federal and state law.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3470, H.D. 2, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Chumbley, McCartney, Anderson).

SCRep. 2610 Judiciary on H.B. No. 3533

The purpose of the bill is to create, for evidentiary purposes, a rebuttable presumption that an illegally moored or placed vessel was moored or placed there by the vessel's owner.

Your Committee believes that this rebuttable presumption is necessary to clarify that the vessel owner is responsible for the illegally moored or placed vessel.

Your Committee received testimony in support of the bill from the board of land and natural resources and the Marimed Foundation.

The Marimed Foundation testified that its sailing school vessel "Tole Mour" has been operating for the past several years as a platform for the treatment, education, and rehabilitation of adolescents referred by juvenile courts, correctional facilities, and adolescent mental health services.

The bill also adopts rules and regulations for the operation of "sailing school vessels" and grants waivers of mooring charges for these vessels. Your Committee believes these steps are necessary to encourage this type of activity.

The bill was amended by allowing evidence of the mooring or placing of a vessel due to an emergency berthing condition to rebut the presumption created by this bill. The bill was also amended to remove language which unnecessarily and unfairly implied that the department of land and natural resources would not follow lawful enforcement procedures, relating to mooring.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3533, 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. 3533, H.D. 2, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Chumbley, Tam).

SCRep. 2611 Judiciary on H.B. No. 3572

The purpose of this bill is to impose criminal penalties for the failure to secure certain licenses and to add a definition of "person" as used in sections 231-34, 231-35, and 231-36, Hawaii Revised Statutes.

Testimony in support of the bill was received from the Department of Taxation. Your Committee also received testimony from the Tax Foundation of Hawaii.

Upon further consideration, your Committee amended the definition of "person" as suggested by the Tax Director with a minor change in order to make the definition more consistent with the definition in the Internal Revenue Code.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3572, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3572, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (McCartney, Anderson).

SCRep. 2612 Judiciary on H.B. No. 3580

The purpose of the bill is to reduce to the level of violations what are currently considered parking and equipment offenses which occur outside the operational area of a public airport.

Most traffic and parking offenses were decriminalized; however, some were inadvertently left outside the scope of the movement toward decriminalization. The bill keeps current penalties intact for offenses occurring within the operational area of a public airport, but reduces to the level of violations parking and equipment offenses outside the operational area.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3580, H.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Chumbley, Tam).

SCRep. 2613 Judiciary on H.B. No. 3592

The purpose of this bill is to authorize the chief election officer to nominate the candidates for board of education seats to the general election, where only two candidates file nomination papers for seats requiring residency in a particular school district.

Your Committee believes that the intent of this bill is to improve the efficiency of the electoral process, by eliminating the necessity of a primary election ballot.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3592 and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Chumbley, McCartney, Anderson).

SCRep. 2614 Judiciary on H.B. No. 3596

The purpose of this bill is to allow the chief election officer or the county clerk to determine an election tie by calculating election rate points based upon voter turnout, rather than upon the number of registered voters.

Testimony in support of this bill was received from the Office of Elections and Common Cause Hawaii.

Your Committee finds that the current method of computing election rate points is arduous and places undue weight upon absentee votes.

Currently, election rate points are allocated to the candidate who received the most votes in a precinct based upon the following calculation:

$$\frac{\text{Number of registered voters in precinct}}{\text{Number of registered voters in district}} = \frac{\text{Election rate}}{\text{points}}$$

Election rate points are expressed as decimal fractions rounded to the nearest hundred thousandth, or five decimal places. The candidate with the highest election rate point total is the winner.

Under the current method, absentee votes are counted twice: absentee votes are counted as a separate precinct and are also counted in the number of registered voters in the district. By counting absentee votes as registered voters in the district, this reduces the election rate points of a candidate and effectively dilutes the votes cast at the election polls.

Upon further consideration, your Committee amended the bill by eliminating the election rate point system and by providing for two election tie-breakers. If two or more candidates receive the same number of votes, the candidate who captured the most precincts is deemed the winner of the election. If two or more candidates captured an equal number of precincts, the second tie-breaker provides that the candidate who won the most precincts and who receives the most votes in the precinct with the highest voter turnout is deemed the winner.

Your Committee believes that these amendments will simplify the methods of determining election ties and will eliminate the double-counting of absentee votes under the existing statute.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3596, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3596, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (McCartney, Chumbley, Anderson).

SCRep. 2615 Judiciary on H.B. No. 3631

The purpose of this bill is to:

- (1) Allow the court to place the names of individuals who wilfully or without reasonable excuse fail to appear when summoned for jury service into the qualified jury wheel for further service in the following year, rather than allowing the term of service to expire; and

- (2) Authorize the court to extend a juror's eligibility of service for the period of time between the first summons and the next summons for service, where a request for deferment is granted and the juror is not called for service in that year.

Testimony in support of this bill was received from the Judiciary, who reported that the First Circuit Court experienced an average of 15 to 16 percent of "no-show" jurors per year, or 4,000 to 5,000 individuals who do not report when summoned. This bill represents the recommendation of the Chief Justice's jury operations committee to resolve this problem.

Upon further consideration, your Committee amended this bill by increasing the current one-day/one-trial jury duty requirement to a two-day/one-trial requirement.

Your Committee finds that the present one-day/one-trial system results in certain inefficiencies. Because jurors are obligated to appear for only one day and because it normally takes at least a half day to brief and to orient jurors, more prospective jurors are summoned to court than can be assigned to a courtroom in any given day. Thus, the current system wastes the time of those who are summoned but not selected for jury service and requires the State to incur unnecessary expenses.

Your Committee further finds that the two-day requirement will not pose an undue burden on jurors and will result in cost savings to the State because fewer jurors will be summoned. In addition, this will allow the courts to manage the individuals who are summoned more efficiently and increase the chances that individuals may actually be selected to sit on a jury.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3631, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3631, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Chumbley, McCartney, Anderson).

SCRep. 2616 Judiciary on H.B. No. 3638

The purpose of the bill is to reduce to the level of violations what are now considered traffic and parking offenses occurring in Aloha Stadium, and to remove from the current penalties the provision for possible imprisonment for up to thirty days.

The bill also retained the current penalty provisions for breaking any rule of the stadium authority regulating conduct on stadium premises as a petty misdemeanor, but increased the maximum fines from \$500 to \$1,000.

Most traffic and parking matters were decriminalized in most areas; however, some areas were inadvertently left outside the scope of the movement toward decriminalization. One of these areas is within the Aloha Stadium. The bill reduces what are now considered traffic and parking offenses within the Aloha Stadium to the status of violations and decriminalizes them.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3638, H.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Matsuura, McCartney, Anderson).

SCRep. 2617 Judiciary on H.B. No. 3653

The purpose of the bill is to clarify the civil definition of harassment to include a single act of harassment, when it is committed by physical harm, bodily injury, assault, or by the threat thereof.

Under current law, the civil definition of harassment requires a course or pattern of conduct which seriously alarms or disturbs another and which consistently or continually bothers this person; however, the civil definition does not contain language that would make a single act of physical conduct or the threat thereof, harassment that can be civilly enjoined by the courts.

The current definition precludes the court from granting civil petitions for relief from harassment when only a single act of physical harm, bodily injury, assault, or by the threat thereof has been committed. By comparison, in family court restraining order cases and in the criminal statute, the definition of harassment does not require a course or pattern of conduct. Harassment in both of these areas may be committed by a single act.

Your Committee received testimony in support of the bill from the judiciary. Your Committee believes that civil harassment may likewise be committed by just one act and believes that the policy in this area should be consistent with both the criminal statute and the statute on family court restraining orders.

Your Committee amended the bill by specifying that the court "may" enjoin and temporarily restrain harassment by a single act of physical conduct or by the threat thereof, but retained the statute's present language that the court "shall" enjoin the harassment, if the court finds it exists through a course or pattern of conduct that seriously alarms or disturbs another which consistently or continually bothers the person. This amendment was made as was suggested by the judiciary.

Your Committee also amended the bill by including the contents of SB2005 S.D. 1 which modernizes the criminal harassment statute to include unwelcomed, repetitive communications made by telephone, facsimile and electronic mail transmissions. SB2005 S.D. 1 passed third reading in the Senate, was transmitted to the House, but was not heard.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3653, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3653, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (McCartney, Anderson).

SCRep. 2618 Judiciary on H.B. No. 3666

The purpose of the bill is to amend the procedures contained within Chapter 712 Part IV, Hawaii Revised Statutes, concerning nuisance abatement for places used for prostitution, pornography, or distribution of drugs.

The bill permits any organization to bring suit to abate these nuisances and to provide that a court may order, as part of the abatement of the nuisance, the exclusion of the persons causing the nuisance from the premises.

Your Committee believes that places used for illicit drugs, prostitution, or pornography are the very places which are major contributing factors in the decline of neighborhoods and communities. By permitting any organization to bring an action for nuisance abatement and permitting a court to exclude the persons causing the nuisance, Chapter 712 Part IV has been effectively strengthened to deal with these problems.

Your Committee received testimony in support of the bill from the honolulu police department, honolulu department of the prosecuting attorney, Downtown Neighborhood Board No. 13, Community Coalition for Neighborhood Safety, and several private individuals.

The bill was amended by also permitting the abatement of not only drug distribution, but also drug use or possession as a nuisance; and was also amended to clarify that any county or state governmental organization may initiate these suits for nuisance abatement, as was suggested by the honolulu department of the prosecuting attorney. The bill was also amended to allow state or county organizations to bring these actions without fear that costs will be taxed against these organizations, should a court find there was no reasonable ground or cause for the suit.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 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 the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Chumbley, McCartney, Anderson).

SCRep. 2619 Judiciary on H.B. No. 3924

The purpose of the bill, as received by your Committee, was to prohibit the sale of ammunition to those under eighteen and to prohibit the sale of ammunition designed exclusively for handguns to those under twenty-one.

Current state law does not prohibit the sale of ammunition to persons under the age of twenty-one; however, Section 134-2, Hawaii Revised Statutes, already prohibits the purchase of firearms by persons under twenty-one.

Your Committee believes that if those under twenty-one years of age are prohibited from owning firearms, they should also be prohibited from purchasing ammunition. Your Committee is also concerned that under current law, it is possible for eighteen year olds to purchase ammunition and then pass the ammunition on to third persons, possibly to members of youth gangs.

Currently, persons under the age of twenty-one may carry and use long guns and ammunition while hunting. Your Committee notes from the testimony received from the Hawaii Rifle Association and others, that certain kinds of ammunition can be used for both handguns and long guns. Your Committee believes that allowing these young persons to purchase ammunition for hunting will present a legal loophole in your Committee's intent to restrict the purchase of ammunition to only those twenty-one years or older.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3924, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3924, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Tam).

SCRep. 2620 Transportation and Government Affairs on H.B. No. 4085

The purpose of this bill is to require unsuccessful applicants for liquor licenses, who reapply for a license for the same location, to show a substantial change in the circumstances that previously led to the denial of their application; and to specify the factors which may be considered for an application which has been previously denied.

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Your Committee has added a provision to make liquor licensees, who sell or furnish liquor to a minor, liable to the minor for any injuries, or for the death of the minor to whom the liquor was sold or furnished. The bill also makes clear the legislative intent that the law be interpreted to abrogate the holding in *Winters v. Silver Fox Bar, et. al.*, 71 Haw. 524 (1990) in favor of a finding that a court could find the serving of liquor is the proximate cause of injuries or death. As amended, the bill attempts to deter the sale of intoxicating liquor to minors.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4085, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 4085, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Solomon).

SCRep. 2621 (Joint) Education and Judiciary on H.B. No. 2515

The purpose of this bill, as received by your Committees, is to allow students who attain the age of sixteen years to choose not to attend school with the consent of their parent or guardian.

Your Committees find that thirty-three states require children to attend school until the age of sixteen years, eight states and the District of Columbia require children to attend school until the age of seventeen years, and nine states, including Hawaii, require children to attend school until the age of eighteen years. Your Committees further find that lowering Hawaii's compulsory school attendance age from eighteen years to sixteen years would bring the State closer to the average compulsory school attendance age in the United States--16.5 years.

Upon further consideration, your Committees believe very strongly, that a process that permits children between the ages of sixteen and eighteen to be excused from compulsory education must be reasoned and well-precedented public policy that does not frustrate the goal of an educated citizenry or cause the release of unsupervised children to the community-at-large. Accordingly, your Committees amended this bill to permit a child who is at least sixteen years old to be excused from attending school when the child, parent, or guardian and the principal of the child's school agree to this action in writing. This bill further specifies that the record is to be kept in the child's school record and that nothing in this provision shall prohibit a child from resuming school in accordance with procedures established by the principal of the child's school. Your Committees also amended the bill by changing the effective date to July 1, 1997, in order to permit the Department of Education time to establish internal policy to accomplish the intent of this bill.

As affirmed by the records of votes of the members of your Committees on Education and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2515, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2515, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairmen on behalf of the Committees.
Ayes, 4. Noes, none. Excused, 5 (Bunda, Kawamoto, Matsuura, McCartney, Anderson).

SCRep. 2622 Education on H.B. No. 2897

The purpose of this bill, as received by your Committee, is to provide for certification of dental health for school aged children entering public and private schools in this State.

Your Committee finds that many of our children suffer from rates of tooth decay as high as three times the national average and that thirty-six per cent of kindergarten children have active, untreated tooth decay. Your Committee further finds that The National Oral Health Objective is that at least ninety per cent of all children entering school for the first time shall have had dental care and dental disease prevention services.

Upon further consideration, your Committee has amended this bill by inserting provisions requiring the Department of Education to submit annual expenditure reports by location and function.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2897, 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. 2897, H.D. 2, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Bunda, Tam).

SCRep. 2623 Education on H.B. No. 3862

The purpose of this bill, as received by your Committee, is to allow principals to exclude students from school for not more than ten days in any single semester, if the principal determines that the student has a discipline problem.

Your Committee finds that current law allows principals to suspend students with the approval of the district superintendent. Additionally, the Department of Education's rules authorize principals to suspend a student for up to ten days. Your Committee agrees that student misconduct which presents a clear threat to the physical safety of others or is extremely disruptive requires a serious response on the part of the school principal and the superintendent.

Therefore, upon further consideration, your Committee has amended this measure by deleting its substance and inserting provisions that:

- (1) Establish a zero tolerance policy of possession of intoxicating alcohol or illicit drugs by students while attending school, that allows principals, on a case-by-case basis, to exclude students for up to one year from school; provided that the student receives substitute educational activities and appropriate intervention and treatment services;
- (2) Require principals, on a case-by-case basis, to exclude for up to one year students who are found in possession of any dangerous weapon while attending school; and
- (3) Direct the revisor of statutes to conform the provisions of this measure with any recodification of the education statutes.

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

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3862, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3862, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Bunda, Tam).

SCRep. 2624 Judiciary on H.B. No. 2731

The purpose of this bill is to permit the Ombudsman to refer to the appropriate authorities a breach of duty or misconduct by any officer of employee of an agency without notice to that person.

Your Committee finds that this bill distinguishes the authority from the duty of the Ombudsman to notify an agency or person prior to the rendering of an opinion or recommendation as provided in section 96-11, Hawaii Revised Statutes.

Your Committee received testimony in support of this bill from the Ombudsman.

Upon further consideration, your Committee amended the bill to require the Ombudsman to report misconduct when there is a reasonable basis to believe that there may be a breach of duty. Your Committee finds that the current standard, which requires reporting when the Ombudsman "thinks" there is a breach is ambiguous. Your Committee further amended the bill to permit the ombudsman to give notice of the referral to the officer or employee. Your Committee believes that there may be instances when the Ombudsman may want to inform officer of employee of the referral.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2731, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2731, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Tam, Anderson).

SCRep. 2625 Judiciary on H.B. No. 2972

The purpose of this bill is to:

- (1) Repeal the June 30, 1996 sunset date of Act 168, Session Laws of Hawaii 1993, which authorized the counties to attach unpaid civil fines imposed for the violation of county laws to taxes, fees, and charges collected by the county;
- (2) Prohibit the collection of an administratively imposed civil fine until appeal rights have been exhausted;
- (3) Prohibit the addition of unpaid civil fines to fees for water for residential use or sewer charges;
- (4) Provide for a review process to determine the appropriateness of the fines which accrued during the pendency of the appeal; and
- (5) Require the counties to establish a county agency to conduct appeal proceedings for civil fine actions, if such an agency does not exist.

Testimony in support of this bill was received from the City and County of Honolulu Building Department, Department of the Corporation Counsel, Department of Finance, Department of Land Utilization, and Department of Public Works; the County of Hawaii Office of the Corporation Counsel; the County of Kauai Office of the County Attorney and the Planning Department; and the County of Hawaii Planning Department.

According to the testimony, the civil fine attachment program has proven to be both efficient and effective in enhancing the county's enforcement capability. However, there is a continued need for the program, especially with respect to habitual violators.

Your Committee finds that the civil fine attachment program is a preferable enforcement tool to correct violations, in comparison to filing actions in court.

Your Committee believes that the intent of this bill is to provide the counties with an efficient, cost effective means to enforce compliance with county ordinances, rules, and regulations.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2972, H.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Tam, Anderson).

SCRep. 2626 Judiciary on H.B. No. 3581

The purpose of the bill is to comply the State commercial driver's licensing law with federal standards in the area of "out-of-service orders".

An "out-of-service order" is an order that either a driver, commercial motor vehicle or motor carrier operation is placed out-of-service pursuant to various federal regulations. The bill prohibits an employer from allowing a person to drive a commercial motor vehicle where there is an "out-of-service order". The bill subjects an employer who violates this section to a fine of not less than \$2,500 nor more than \$10,000.

Your Committee finds that state law must comply with the federal standards in this area or risk losing federal highway funds. The State department of transportation testified that non-compliance can result in the withholding of federal highway funds of approximately five million dollars in the first year and ten million dollars thereafter.

The bill was amended by making technical, non-substantative revisions for the purpose of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3581, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3581, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Matsuura, McCartney, Anderson).

SCRep. 2627 Higher Education, Culture, and Arts on H.B. No. 291

The purpose of this bill is to require that at least one member of the University of Hawaii Board of Regents to be a student or an alumnus whose degree was conferred no more than two years prior to the date of appointment, and that the term of the student member shall be for two years.

Your Committee finds that in passing S.B. No. 194 which became Act 143, Session Laws of Hawaii 1971, the Legislature enunciated in Senate Standing Committee Report No. 442 that no member of the Board should be representative of a faction or a constituency. Your Committee further finds that for this reason the 1971 Legislature did not include language in the Act providing for membership of a student on the Board of Regents. Your Committee also notes that current statutory language does not prohibit the appointment of an individual who is a student or a recent alumnus.

Your Committee believes that student input is an important element to decisions relating to higher education. Your Committee encourages the governor to consider appointing a student to the Board. Your Committee finds that the Board currently assigns five students as representatives to the Board of Regent's standing committees; however, due to statutory and proprietary concerns such as liability, student representatives are not assigned to the Board's committee on personnel relations and are excluded during executive sessions.

Your Committee has amended the bill by:

- (1) Deleting the requirement of appointment of a student or alumnus to the Board of Regents;
- (2) Requiring that the Board of Regents appoint a student member to each of its standing committees except the committee on personnel relations, specifying that the student will be excluded from executive sessions, and that the student's presence will not count toward a quorum; and
- (3) Deleting amendments to section 304-3, Hawaii Revised Statutes, from the bill.

As affirmed by the record of votes of the members of your Committee on Higher Education, Culture, and Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 291, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 291, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Fernandes Salling, Ikeda, Iwase).

SCRep. 2628 (Joint) Agriculture, Labor, and Employment and Ways and Means on H.B. No. 3968

The purpose of this bill is to statutorily establish the Hawaii Employers' Mutual Insurance Company (HEMIC).

HEMIC would replace the existing workers' compensation assigned risk pool to provide workers' compensation coverage for Hawaii employers, including employers who have in good faith, but without success, sought workers' compensation insurance in the voluntary market.

Your Committees find that an adequate and available workers' compensation insurance market is necessary for the economic welfare of the State, and that without workers' compensation insurance, the orderly growth and economic development of the State would be impeded. Adequate insurance for worker's compensation is necessary to enable employers to satisfy their legal obligation under chapter 386, Hawaii Revised Statutes.

The workers' compensation assigned risk pool was established to provide coverage for employers whose job classifications have a high risk of employee injury or illness. However, many Hawaii businesses have been placed in the assigned risk pool merely because they are small businesses, not because they are high risk. The assigned risk pool is a growing market that has increased steadily for the last ten years and presently is the largest market share of workers' compensation insurance. For policy year 1994, approximately thirty per cent of Hawaii's businesses were in the assigned risk pool.

Your Committees also find that at least four states have established employers' mutual insurance companies in response to workers' compensation problems in their states. The policyholders of these companies are actively involved in the running of the companies. These entities write a significant market share in their respective state and provide a full range of workers' compensation services.

The purpose of HEMIC would be to provide:

- (1) Workers' compensation coverage to employers of the State at the highest level of service with the lowest possible cost, consistent with reasonable applicable actuarial standards and the sound financial integrity of the company; and
- (2) The highest standard of workplace safety and loss prevention to encourage employer involvement and to be responsive to each policyholder's experience, practice, and operating effectiveness.

HEMIC would be allowed to issue revenue bonds or debentures once, payable solely from premiums received from insurance policies and other revenues received by the company for the initial operating expenses of the company.

Your Committees have amended the bill by:

- (1) Making extensive technical amendments to ensure the proper administration of HEMIC;
- (2) Inserting provisions that provide for the savings realized by the reforms enacted in Act 234, Session Laws of Hawaii 1995, to be passed on annually to insureds in the assigned risk pool in the form of reduced premiums;
- (3) Deleting HEMIC's ability to issue revenue bonds;
- (4) Providing the Insurance Commissioner with the authority to effectively administer the assigned risk pool; and
- (5) Providing insurance companies with recourse to obtain rate relief from assigned risk pool rates.

Although your Committees earnestly believe that workers' compensation insurance costs need to be lowered, this measure, even as amended, pose significant concerns. Your Committees are still not convinced that the establishment of HEMIC is constitutional. Until your Committees can be assured that HEMIC's establishment does not conflict with sections 5, 8, and 21 of Article 1 of the State Constitution, the creation of such an entity will be questionable.

Your Committees are also concerned over the lack of details regarding the financing of HEMIC. Even as amended, the bill is not clear as to how the operations of HEMIC will materialize.

Your Committees also note that if established, HEMIC will not be a creature of the State, nor will the State incur any liability from any actions taken by HEMIC. Your Committees base this belief on the Attorney General opinion dated March 21, 1996, and addressed to the Lieutenant Governor on this matter.

As affirmed by the records of votes of the members of your Committees on Agriculture, Labor, and Employment and Ways and Means that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3968, H.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3968, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairmen on behalf of the Committees.

Ayes, 7. Noes, none. Excused, 5 (Bunda, Fernandes Salling, Fukunaga, Ikeda, Anderson).

SCRep. 2629 (Joint) Agriculture, Labor, and Employment and Ways and Means on H.B. No. 3512

The purpose of this bill is to improve the administration of the workers' compensation law, reduce costs, and facilitate compliance with Act 234, Session Laws of Hawaii 1995.

Specifically, this bill would:

- (1) Establish a Workers' Compensation Benefits Facilitator Unit (Unit) in the Department of Labor and Industrial Relations (DLIR) to assist parties in filing claims and to facilitate the workers' compensation claims process and authorizes the appropriation of \$150,000 from the Special Compensation Fund for its operation;

- (2) Define "nonphysician" as a physical therapist, occupational therapist, speech and language pathologist, acupuncturist, massage therapist, or any other person rendering medical care and supplies directed by the attending physician based on a written prescription and treatment plan;
- (3) Clarify that a person may qualify for benefits if injured while in the act of stopping or preventing an unprovoked nonwork-related altercation;
- (4) Disallow compensation for injuries by an employee while engaging in or performing any recreational or social activity engaged in off the work premises and solely for the employee's personal pleasure, or where attendance at the activity is voluntary and not a condition of employment;
- (5) Adopt the Medicare fee schedule adjustments on a calendar year basis rather than a fiscal year basis to coincide with the publication dates of the Medicare fee schedule, effective January 1, 1997;
- (6) Give the Director of Labor and Industrial Relations (Director) greater flexibility in setting medical fee schedules by requiring updated schedules every three years or annually, as required;
- (7) Delete the requirement that after the initial five treatments, the Director's authorization is needed for up to ten additional treatments;
- (8) Allow the Director to sanction nonphysicians in the same manner as health care providers;
- (9) Remove the minimum weekly benefit amount when calculating the temporary total disability benefit to reflect the actual hours worked before the injury;
- (10) Clarify the responsibility of the employer and the Special Compensation Fund in cases involving pre-existing conditions;
- (11) Enable the employer to calculate concurrent temporary total disability benefits payable consistent with section 386-51, Hawaii Revised Statutes (HRS);
- (12) Clarify the amount of employer requested examinations allowed per case;
- (13) Clarify that fraudulent acts must be intentionally performed, clarify criminal and administrative penalties for fraud, and delete provisions that subject hearings officers to prosecution for fraud while performing their official duties;
- (14) Authorize the Insurance Commissioner to adjust workers' compensation insurance rates, based on generally accepted actuarial techniques, to reflect the impacts of the provisions of Act 234, Session Laws of Hawaii 1995, and this measure;
- (15) Provide that the Department of Commerce and Consumer Affairs, with the assistance of DLIR, to conduct a comprehensive feasibility study on establishing individual medical trust accounts for employees to provide coverage of health care expenses arising from workers' compensation claims; and
- (16) Require the Director of Commerce and Consumer Affairs to adopt rules for the establishment of individual medical trust accounts no later than July 1, 1997. Also requires the Director of Commerce and Consumer Affairs to submit rules to the Legislature no later than December 31, 1996. The rules shall not be adopted if the Legislature disapproves the rules by concurrent resolution during the regular session of 1997.

Your Committee finds that although Act 234, Session Laws of Hawaii 1995, was enacted to provide relief from skyrocketing workers' compensation insurance costs, further adjustments to the workers' compensation system are necessary to further effectuate significant reform.

Your Committee has amended the bill as received by:

- (1) Deleting sections 2, 3, 6, 7, 8, 9, 10, 11, 13, 14, and 15; and
- (2) Inserting provisions that provide workers' compensation insurance coverage to volunteer police chaplains.

As affirmed by the records of votes of the members of your Committees on Agriculture, Labor, and Employment and Ways and Means that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3512, H.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3512, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairmen on behalf of the Committees.

Ayes, 7. Noes, none. Excused, 5 (Bunda, Fernandes Salling, Fukunaga, Ikeda, Anderson).

SCRep. 2630 Judiciary on H.B. No. 599

The purpose of the bill, as received by your Committee, was to revise the conditions under which a petitioner may be issued a conditional permit to drive under the administrative revocation law.

Your Committee amended the bill to clarify an apparent conflict between two sections in the administrative driver's license revocation statute. The amendment clarifies that the proper language is contained within Section 286-259(j), Hawaii Revised Statutes, which provides for an extension of a temporary driving permit for good cause.

The bill was also amended to clarify legislative intent that upon judicial review, the district court is precluded from remanding the matter back to the administrative driver's license revocation office for further hearings.

After a decision to revoke a person's driver's license is made by the administrative driver's license revocation office (ADLRO), the person may appeal to the district courts for a review of this decision. After the district court has reviewed the ADLRO's decision to revoke the driver's license, current law is uncertain whether the district court may then remand the matter back to the ADLRO for further proceedings.

Your Committee believes that the driver's license revocation process was enacted with the intent for the ADLRO to make a simple, quick, and efficient determination whether to revoke a person's driver's license for driving under the influence of intoxicating liquor. Allowing for a procedure where the district court may then remand the matter back to the ADLRO defeats the original purpose of the legislation.

Your Committee also amended the bill by excluding Saturday in the ADLRO's computation of time periods, if the last day which any act is to be done falls on a Saturday. Excluding Saturday is consistent with current law and court procedures which similarly exclude Sundays and holidays.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 599 as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 599, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Anderson).

SCRep. 2631 Communications and Public Utilities on H.B. No. 2433

The purpose of this bill is to increase the efficiency of the motor carrier law by extending the repeal date of Act 105, Session Laws of Hawaii 1995 (Act 105), from June 8, 1996, to June 8, 1998. Act 105 authorized the use of motor vehicle safety officers to enforce the motor carrier law.

Your Committee finds that for a number of reasons, primarily logistical, Act 105 was not fully implemented until January 1996. Your Committee believes, therefore, that a two-year extension of Act 105 is reasonable to prevent the premature demise of this promising motor carrier enforcement program.

Your Committee has amended this bill to ensure that various definitions added to section 269-1, Hawaii Revised Statutes, by Act 225, the 1995 telecommunications reform measure, are not inadvertently deleted by the repeal and reenactment provisions of this measure. Your Committee has also made several other technical, nonsubstantive changes for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Communications and Public Utilities that is attached to this report, your Committee 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 the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Kanno, Liu).

SCRep. 2632 Ecology and Environmental Protection on H.B. No. 1482

The purposes of this bill are to:

- (1) Allow public access to information available on the location and status of underground storage tanks and tank systems, incidents of violations or reported releases of oil or hazardous materials, reports on prevention exercises, and epidemiological studies pertinent to related health risks, and
- (2) Amend section 128E-2, Hawaii Revised Statutes, regarding the Hawaii State Emergency Response Commission, to require the commission to submit an annual report to the Governor and Legislature.

Your Committee believes this bill is not needed at this time and replaced the contents of the bill with language which:

- (1) Requires the Department of Health to study and review state and federal environmental laws to ensure their continued force, effectiveness, and consistency, and report back to the 1997 Legislature; to establish environmental goals and objectives with input from the regulated community and the general public; to use the goals and objectives in the implementation of its programs; and to review the goals and objectives every two years and report back to the Legislature twenty days prior to the convening of the legislative session immediately following the completion of the review;
- (2) Amends chapter 321, Hawaii Revised Statutes, to allow the Department of Health to utilize certain criteria in determining whether an activity constitutes a public health nuisance, and to allow the Department to modify any permit that it issued to the facility conducting the activity to mitigate any adverse impacts to the community; and

- (3) Allows the Department of Health to require a developer to hold a community informational briefing in an impacted community prior to the issuance of a noise permit for construction-related activities that propose to use pilehammers for a period in excess of thirty days.

Your Committee received testimony in support of this bill from the Director of Health.

As affirmed by the record of votes of the members of your Committee on Ecology and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1482, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1482, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Chumbley, Ikeda).

SCRep. 2633 Ecology and Environmental Protection on H.B. No. 2505

The purposes of this bill are to:

- (1) Give excavations of any Hawaiian fishponds and historic property as defined in section 6E-2, Hawaii Revised Statutes (HRS), priority in the water quality certification and permit process;
- (2) Require the director to issue written decisions on the completeness of any application;
- (3) Require the director to specify in writing the reasons for the application's incompleteness if the director determines the application is incomplete; and
- (4) Add a new section to chapter 6E, HRS, relating to the restriction of the sale of antiquities and providing penalties for violations and allows the State to pursue civil as well as criminal action against violators of the section.

Your Committee received testimony in support of the bill from the Department of Health, the Board of Land and Natural Resources, the University of Hawaii, the Historic Hawaii Foundation, and several other individuals.

Your Committee has amended the bill by:

- (1) Deleting all provisions relating to the water quality certification and permit process;
- (2) Specifying that only purchases of antiquities made with knowledge of a violation of the section would be subject to prosecution; and
- (3) Amending the definition for "Antiquity" to mean items dated prior to 1890 instead of one hundred years old;

As affirmed by the record of votes of the members of your Committee on Ecology and Environmental Protection that is attached to this report, your Committee 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 the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Chumbley, Ikeda).

SCRep. 2634 Agriculture, Labor, and Employment on H.B. No. 3333

The purpose of this bill is to enable the Department of Agriculture to more efficiently regulate animal feed.

Specifically, the bill allows the Department of Agriculture to adopt as their own rules, all federal regulations, guidelines, and compliance policy guides regarding feeds without complying with the notice and public hearing requirements of Chapter 91, Hawaii Revised Statutes.

Your Committee finds that federal agencies regularly hold national public hearings to amend regulations dealing with tolerances, guidelines, and action levels for pesticides and other chemical adulterants in animal feeds and it would be duplicative to repeat the process in Hawaii.

Your Committee has made technical, nonsubstantive amendments for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3333, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3333, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Solomon, Anderson).

SCRep. 2635 Agriculture, Labor, and Employment on H.B. No. 2991

The purpose of this bill is to amend the domestic service exclusion under section 383-7(2), Hawaii Revised Statutes, the Hawaii Employment Security Law, by providing that domestic service will not qualify as employment for

unemployment insurance purposes unless it meets the limitations of section 3306(c)(2) of the Internal Revenue Code of 1986, as amended.

Under that section, domestic service in a private home, local college club, or local chapter of a college sorority or fraternity will not qualify as employment for unemployment insurance purposes unless performed for a person who has paid \$1,000 or more for such services in any calendar quarter in the calendar year or the preceding calendar year. Current law provides that such domestic services are not considered employment for unemployment insurance purposes if the employer pays less than \$225 to any individual and less than \$1,000 in cash wages for all individuals per calendar quarter for such services. Inasmuch as the minimum hourly wage is \$5.25, the deletion of the \$225 requirement is of no significance.

The Department of Labor and Industrial Relations, and the Hale Mahaolu Personal Care Program submitted testimony in support of the bill.

Your Committee made a technical amendment to properly reference the Internal Revenue Code of 1986.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2991, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2991, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, none.

SCRep. 2636 Agriculture, Labor, and Employment on H.B. No. 3468

The purpose of this bill is to repeal section 76-22, Hawaii Revised Statutes (HRS), relating to the use of unassembled examinations to evaluate candidates for higher ranking civil service positions.

Your Committee finds that unassembled examinations consist solely of the rating of an applicant's training and experience and that section 76-22, HRS, which limits the use of unassembled examinations to higher ranking supervisory, administrative, fiscal, and professional positions, is obsolete and repeal of the section is appropriate.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3468 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, none.

SCRep. 2637 Agriculture, Labor, and Employment on H.B. No. 1042

The purpose of this bill is to exempt the services of real estate salespersons and brokers from the definition of "employment" under worker's compensation and temporary disability laws.

Your Committee believes that persons engaged in real estate transactions and paid on a commission basis should be excluded and exempted by legislative action.

To clarify the intent and purpose of both laws with respect to disputes over "employment" and coverage, your Committee has amended the bill to establish procedural and substantive safeguards consistent with the overall purpose of the worker's compensation and temporary disability programs in Hawaii. Exemptions and exclusions from employment and coverage should be narrowly construed and applied, unless otherwise mandated by legislative action.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1042, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1042, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, none.

SCRep. 2638 Ecology and Environmental Protection on H.B. No. 388

The purpose of this bill is to authorize the environmental council to intervene and require an environmental impact statement for projects proposed by state agencies, when the agency recommends a negative declaration. This bill also requires the council to adopt rules prescribing procedures for intervening, and requires an environmental impact statement when an agency recommends a negative declaration.

Your Committee believes the provisions in this bill are not needed at this time and deleted the contents of the bill and replaced them with language that:

- (1) Directs Department of Health to continue ambient air quality studies of Campbell Industrial Park, to consider the impact of peak emissions from covered sources on the ambient air quality and risks to public health, and to determine whether emissions from facilities with emission equipment that is grandfathered from current Clean Air Act guidelines ("grandfathered sources") are causing or contributing to any air quality or health problems;

- (2) Subject to a departmental finding that grandfathered sources are causing or contributing to air quality or health problems, amends air pollution control law to establish a ten-year pilot program to improve the environmental quality of the Campbell Industrial Park area by requiring the reduction of air pollutant emissions from grandfathered sources, and requiring grandfathered sources to assess the need for the upgrade of their emission control equipment to meet 1997 best achievable control technology standards at the time of permit renewal, to be phased in over a ten-year period and allow the sources to amortize the costs of compliance over that period; and
- (3) Amends the hazardous waste statute and the used oil transport, recycling, and disposal statute by consolidating used oil and used oil fuel regulation under a new part of the hazardous waste statute; repeals used oil statute; and amends section 128D-6, Hawaii Revised Statutes, to be consistent with hazardous waste statute.

Your Committee agrees with the testimony of the Director of Health that the implementation of the pilot program should await the findings and conclusions of the Department's ongoing study of the ambient air quality of the Campbell Industrial Park area. Your Committee is sensitive to the concerns of economic hardship that could be experienced by parties affected by this bill. However, your Committee feels that its obligation to protect the general public from the obvious health hazards of accidental releases from major sources and from the degradation of air quality outweigh such economic concerns.

As affirmed by the record of votes of the members of your Committee on Ecology and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 388, 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. 388, H.D. 1, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Chumbley, Ikeda).

SCRep. 2639 (Joint) Agriculture, Labor, and Employment and Ways and Means on H.B. No. 3520

The purpose of this bill is to make an emergency appropriation for the payment of unemployment insurance benefits under Chapter 383, Hawaii Revised Statutes, to former state employees for all departments in the Executive branch, the Judiciary, and the Legislature.

Your Committees find that the entire amount that was appropriated through Act 218, Session Laws of Hawaii 1995, for the 1995-1996 fiscal year has been expended. The sum of \$4.5 million is requested to provide for these benefits. Due to the lack of sufficient funding, the financing of benefits is currently being funded through private employer tax moneys from the Unemployment Insurance Trust Fund (Fund), which is improper and adversely impacts the solvency of the Fund.

Your Committees find that an emergency appropriation is needed in the sum of \$4.5 million to provide the unemployment benefits to former state employees.

Your Committees have amended the bill by inserting language to clarify the need for the additional appropriation and by making several technical, nonsubstantive amendments for the purpose of conforming the bill to recommended drafting procedures.

Your Committees note that this emergency appropriation should not be viewed by executive departments as a remedy to the situation but as a symptom of a serious problem that requires immediate attention. Executive departments need to be more accountable for unemployment insurance costs. Additionally, the Department of Human Resources Development should develop either a program or policy to monitor and curtail unemployment insurance spending.

As affirmed by the records of votes of the members of your Committees on Agriculture, Labor, and Employment and Ways and Means that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3520, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3520, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairmen on behalf of the Committees.
Ayes, 7. Noes, none. Excused, 5 (Bunda, Fernandes Salling, Fukunaga, Liu, Anderson).

SCRep. 2640 Agriculture, Labor, and Employment on H.B. No. 696

The purpose of this bill is to amend the definition of "employee" under the wage and hour law to include seamen.

Your Committee has amended the bill by inserting qualifying language for "seaman". Although your Committee is aware of the concerns about the implementation of this bill, your Committee is moving the bill forward with the understanding that the concerns will be remedied in conference. Your Committee has also changed the effective date to June 30, 1997.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 696, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 696, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, none.

SCRep. 2641 Judiciary on H.B. No. 1866

The purpose of this bill is to amend the sunshine law to specify permitted interaction of board members and to establish a process that permits an emergency meeting of a board to address situations caused by unanticipated events.

Your Committee heard testimony in support of this bill from the Attorney General, the Board of Regents of the University of Hawaii, the Department of Commerce and Consumer Affairs, the Board of Land and Natural Resources, the Department of Human Resources Development, the Hawaii Hurricane Relief Fund, and individuals who serve as members of State boards.

Your Committee heard testimony in opposition to this bill from the Honolulu Community-Media Council, the League of Women Voters, Common Cause Hawaii, the Society of Professional Journalists and Honolulu Information Service.

The sunshine law presently prohibits any discussion of board matters outside of a duly noticed public meeting. Your Committee believes that the intent of each person who is appointed to a board is to comply with the letter and spirit of the sunshine law. Your Committee is also aware that there are instances when it is appropriate for interactions to occur between members of a board or between members of a board and the governor or the head of a department, or, when unanticipated events necessitate the prompt convening of a board meeting and that these discussions or meetings, per se, do not undermine the essence of open government.

Upon further consideration, your Committee amended this bill to change the number of board members who may gather information among themselves privately from three to two and by adding a definition of "unanticipated event".

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1866, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1866, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Chumbley, McCartney).

SCRep. 2642 Judiciary on H.B. No. 2869

The purpose of this bill is to permit the service of process under the Uniform Parentage Act, by registered or certified mail, return receipt requested, when the parties live in different circuits within this State. Service will only be effectuated if the return receipt is signed by the addressee.

Your Committee received testimony from representatives of the Attorney General and the Office of the Corporation Counsel for the City and County of Honolulu, the County of Kauai, and the County of Hawaii.

Your Committee finds that allowing service of process by certified or registered mail in cases under the Uniform Parentage Act, when parties live in different circuits within the State, is a reasonable and efficient effectuation of service as long as the return receipt is signed by the addressee. This means of service is utilized when parties to a case under the Uniform Parentage Act live outside the State of Hawaii. Therefore, service of process as presented in this bill is more than reasonable.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2869, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (McCartney, Anderson).

SCRep. 2643 Judiciary on H.B. No. 2956

The purpose of this bill is to grant immunity from civil liability to volunteers acting in good faith and within the scope of the volunteers' functions.

Your Committee acknowledges the invaluable contribution made by volunteers of nonprofit organizations. Nevertheless, your Committee finds that, although a perception lingers that use of volunteers increases the threat of lawsuits, a study by the Legislative Reference Bureau concluded that this does not appear to be the reality experienced by Hawaii's nonprofits. (Volunteerism -- A Risky Business? Legislative Reference Bureau, 1996.) The Bureau also found little basis for the assumption that nonprofit organizations find it difficult or expensive to obtain liability insurance.

Your Committee further finds, however, that certain volunteers serving on certain quasi-governmental boards or councils may not be protected under state or county laws.

Accordingly, upon further consideration, your Committee has amended this bill by deleting its existing provisions and inserting language to protect members of any county neighborhood commission or board or student-centered school board or school community-based management council from liability for civil damages for decision taken at official meetings conducted in accordance with applicable laws, rules, or procedures.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2956, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2956, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Matsuura, Anderson).

SCRep. 2644 Judiciary on H.B. No. 3216

The purpose of the bill is to immediately remove firearms and ammunition in plain view or discovered pursuant to a consensual search in domestic violence situations.

Your Committee finds that domestic violence is on the increase statewide. Some instances of domestic violence have also involved the use of firearms.

Recent legislation enacted in 1994 provides that upon receipt of a restraining order from the Family Court, the abusive spouse is prohibited from possessing firearms and ammunition; however, your Committee believes that the process for one spouse to obtain a restraining order against the abusive spouse may sometimes be too long of a period to wait, where a firearm is readily available.

Many abused spouses do not even seek the protection of a restraining order, and thus, do not receive its protections. The bill further extends the intent of recent legislation to protect the family from abuse, and provides authority for law enforcement officers to immediately remove firearms in domestic violence situations.

The bill was also amended to require persons who possess firearms to store them away from third persons, and to impose absolute liability upon a person who fails to store a firearm, the discharge of which causes injury or property damage.

Your Committee finds that household members are also at serious risk where firearms are not safely stored within the household. The bill places absolute liability upon a person who fails to comply with the storage requirements should the firearm cause injury or property damage.

The bill was further amended to clarify that convictions for abuse of family or household members are not subject to deferred acceptance treatment by the court. Currently, the courts are not allowing defendants to receive a deferred acceptance of their guilty or no contest plea; however, current law does not expressly state this practice.

The bill clearly states the legislative intent that DAGs and DANCs are prohibited in cases involving abuse of family or household members. Your Committee finds that abuse of family or household members is a crime which escalates both in the frequency and severity of the offense. To allow DAGs and DANCs would preclude the prosecution from knowing the true, prior history of the offender.

Technical, non-substantive amendments were also made for the purpose of style and clarity.

Your Committee received testimony in strong support of the bill from the state department of health, state attorney general, honolulu police department, Domestic Violence Clearinghouse and Legal Hotline, Injury Prevention Advisory Committee, Parents and Children Together, Family Peace Center, and several individuals.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3216, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3216, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Anderson).

SCRep. 2645 Judiciary on H.B. No. 3349

The purpose of this bill is to authorize the dissemination of disposition information, as public record, for cases adjudicated under chapter 704, Hawaii Revised Statutes, concerning penal responsibility and fitness to proceed under the Hawaii Penal Code.

Your Committee finds that currently, data on cases involving acquittals by reason of insanity are not considered conviction information under the law, and therefore, cannot be released by the Offender-Based Transaction Statistics/Computerized Criminal History System. In contrast, however, the State's law relating to the expungement of records contains explicit provisions prohibiting the expungement of such cases. A national survey performed by the Hawaii Criminal Justice Data Center to determine the policies of other states found twenty-two states that allow the release of information on these cases to the public. Your Committee finds that allowing the dissemination of information on these cases will result in a direct positive impact on the public.

Your Committee has amended this bill by making a technical change in the wording of the amendment. The change clarifies the intent of the amendment to the law.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3349, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3349, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Anderson).

SCRep. 2646 Judiciary on H.B. No. 3351

The purpose of this bill is to bring state laws affecting wages withheld for child support in line with federal laws and regulations.

More specifically, this bill:

- (1) Ensures that the total wages withheld for child support do not exceed the maximum amount permitted under the Consumer Credit Protection Act;
- (2) Eliminates the court's discretion to override the priority of withholding child support or an assignment of future income order over any other legal process; and
- (3) Deletes the provision allowing a fee from consumer reporting agencies requesting information.

Testimony from the Attorney General indicated that these changes all comply with federal law or regulations; therefore your Committee finds that this bill is both legally correct and necessary. Its provisions continue to provide for children with absent parents and still protects the wage earner-parent who pays for child support.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3351 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Anderson).

SCRep. 2647 (Joint/Majority) Consumer Protection and Ways and Means on H.B. No. 2286

The purpose of this bill, as received, is to provide for a motor vehicle insurance system of consumer choice between personal injury protection and liability coverages.

The purpose of this bill, as amended, is to provide for a "pure no-fault" system of motor vehicle insurance compensation whereby losses occurring from motor vehicle accidents would be covered by mandatory first party insurance coverage rather than lawsuits. By insurance industry standards, a pure no-fault system exists when there is at least ninety-five percent elimination of tort liability. Under this bill, as amended, the tort system is eliminated to the extent of that the damages for uncompensated economic loss do not exceed \$250,000.

In order to ensure adequate protection for personal injury with the virtual elimination of a remedy in tort, the bill provides for a mandatory minimum coverage of \$250,000. Information received by your Committees indicate that this amount would be sufficient to cover ninety-nine percent of all injuries arising from motor vehicle accidents. To maintain this percentage of protection over time, the bill contains provisions to require the insurance commissioner to review and update this requirement annually to adjust the dollar amount of the mandatory minimum coverage. Your Committees note that the bill would also allow insurers to offer:

- (1) Pain and suffering first party insurance;
- (2) Coverage for wage loss benefits;
- (3) Death benefits; and
- (4) Managed care arrangements to provide no-fault benefits.

In response to concerns raised in testimony at the hearing on this bill, your Committees have included an amnesty period for uninsured motorists who obtain the required coverages prior to December 31, 1996. The amnesty covers penalties, surcharges, and suspension or revocation of licenses due to failure to maintain no-fault insurance.

Your Committees, concerned about possible fraud in the no-fault claims system, have included provisions for fraud violations in obtaining benefits.

This bill, as amended, also provides restraints upon attorneys and providers of goods and services covered by benefits under article 10C, in the form of a violation of unfair and deceptive trade practices.

Your Committees heard poignant testimony at the hearing on this bill from insureds who were treated in a cavalier manner by their insurers who denied paying their claims for no-fault benefits. Therefore, this bill, as amended, requires insurers to continue paying the benefits to the providers until the final order of the commissioner on the appeal of the denial of the claim; but, the providers are required to refund those payments if the insurer prevails on the denial. The bill, as amended, also provides that the insureds do not have to reimburse the provider or the insurer. In this manner, insureds would continue to receive treatment during the pendency of their administrative appeal without incurring liability in any manner to pay for those treatments or to reimburse the insurer.

This bill, as amended, also contains a mandatory premium rate reduction of twenty-five to thirty-five percent for those insureds who discontinue their liability coverages and have the required mandatory minimum coverages.

With respect to the estimated one percent of catastrophic motor vehicle accident related injuries in excess of \$250,000, the bill, as amended, would allow recovery in tort for uncompensated economic losses. In addition, the bill also provides

that any pedestrian, bicyclist, or other person not occupying a motor vehicle, who is injured or killed as a result of being struck by a motor vehicle, will also be entitled to the benefits of the increased mandatory minimum coverage.

No-fault benefits are defined as the same benefits provided under the Prepaid Health Care Act, without transferring coverage to prepaid health care plans. Your Committees believe that the same benefits, with certain unrelated exclusions, should be available under both insurance systems. Your Committees note the objection of employers as to possible increases in their premiums for prepaid health insurance and, therefore, has required motor vehicle insurers to provide the no-fault benefits.

Your Committees are sensitive to the constitutional issue that must be considered in substituting or restricting remedies in tort. Your Committees find, however, that all of the laws that prohibit motor vehicle accident victims from recovering in tort have been upheld when the subject laws included appropriate provisions for "an adequate substitute for", or "a reasonable substitute to", recovery for damages in tort. While the grounds for these cases are varied, all of the courts have held that the legislature is constitutionally empowered to eliminate the traditional right of the injured party to seek damages for pain and suffering in tort against the alleged tortfeasor in those instances where serious injuries are not sustained, or where the injured party is guaranteed some recovery for economic losses from their insurers.

The elimination of tort liability and other artificial cost drivers as proposed in the bill, as amended, will result in significant and direct cost savings to consumers of automobile insurance by as much as forty percent while providing one hundred percent coverage for personal injury protection. The resulting savings on the current average annual automobile insurance premium of \$1,000, therefore, will be approximately \$400 per vehicle. Your Committees note that these are real savings that the consumer will be able to redirect into the local economy.

Your Committees strongly believe that the real significance of this bill lies in its reformation of the ineffective and costly tort system as it relates to the compensation of injured parties of motor vehicle accidents. Under the pure no-fault system as proposed, compensation to the injured party will be much more swift, direct, and complete in ninety-nine percent of all cases.

This bill addresses and satisfies the concerns of the Governor on the right to sue. Lawsuits are permitted under well-defined circumstances to ensure that only the most seriously injured will have access to the tort system, to be fair and equitable and still be "no-fault."

Your Committees further find that this bill offers an adequate and equitable "quid pro quo" (Governor's Statement of Objections to Senate Bill No. 1762, 1995) of a reduction in premiums in relation to abolishing the right to sue (which is maintained to a limited extent), thus satisfying the constitutional questions raised by the Governor. Although the premium reduction contained in this bill is less than the forty-five percent reduction contained in S.B. No. 1762, this bill does not entirely eliminate lawsuits either. Furthermore, the commissioner is given the authority to intervene to adjust rates to ensure that rates are fair and just to both the insured and the insurer.

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Ways and Means that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2286, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2286, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairmen on behalf of the Committees.

Ayes, 12. Noes, 1 (Fernandes Salling). Excused, 5 (Aki, Bunda, Ihara, Kanno, Tanaka).

SCRep. 2648 Consumer Protection on H.B. No. 2359

The purpose of this bill is to create a more equitable distribution of representation on the Hawaii Property Insurance Association's (HPIA) Board of Directors (Board) to ensure that all affected parties have a voice and vote in handling property insurance matters by restructuring the membership of the Board to include more members who represent the public.

The current composition of the Board is as follows:

- (1) Nine voting members selected by the member insurers;
- (2) One voting member appointed by the Insurance Commissioner (Commissioner) to represent insurance agents; and
- (3) Two voting members appointed by the Commissioner to represent the public.

Your Committee finds that the present make-up of only two Board members to represent the public does not truly and effectively allow for meaningful public input.

Your Committee believes it is imperative that all affected parties have a strong voice and vote in property insurance matters. At a critical time when public access to decision-making processes are of paramount importance, the restructuring of the HPIA to include five board members to represent the public's interest is an extremely positive change. This revamping of the Board clearly promotes openness and fairness in the organization, management, policies, and activities of the HPIA that ultimately will benefit the consumers. Your Committee strongly encourages the commissioner to appoint one public member from Kalapana, Hawaii, in order to represent the important viewpoint of these affected by lava flows.

Your Committee has amended the bill by changing the effective date to January 1, 3001, to provide further discussion.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2359, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2359, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Aki).

SCRep. 2649 (Majority) Consumer Protection on H.B. No. 2524

The purpose of this bill, as received by your Committee, is to permit disciplinary action when a physician or osteopath has been convicted of a sexual offense under the penal code when the offense involves a patient.

Your Committee finds that this measure is unnecessary at the present time. It does, however, find that it is necessary to establish licensure and regulatory control over the legal union of a man and a woman in a relationship of marriage.

Your Committee finds that the relationship of marriage between a man and a woman and culminating in the formation of a family, is a traditional social institution which forms the fundamental basis of our society. As such, it is necessary for the State to establish a system of laws for the preservation of this sacred relationship, protection of social order, and the general health and welfare of Hawaii's citizens.

Your Committee has therefore amended this measure by deleting all existing language and substituting language adding a new "purpose" section to Chapter 572, Hawaii Revised Statutes, dealing with marriage.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2524, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2524, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, 2 (Ige, Ihara). Excused, 1 (Levin).

SCRep. 2650 Consumer Protection on H.B. No. 2567

The purpose of this bill is to allow a nondepository financial services loan company (FSLC) to issue standby letters of credit upon the following terms and conditions:

- (1) Nondepository FSLCs shall report the aggregate amount of their outstanding standby letters of credit on financial statements submitted to the commissioner pursuant to section 412:3-112, Hawaii Revised Statutes;
- (2) The aggregate amount of the outstanding standby letters of credit shall not exceed twenty per cent of the nondepository FSLC's capital and surplus amounts;
- (3) Standby letters of credit issued by nondepository FSLCs shall not be used for consumer loan transactions; and
- (4) The issuing nondepository FSLC shall identify itself as a nondepository FSLC in its standby letter of credit.

Your Committee has amended this bill by changing the effective date to January 1, 3001, to ensure further discussion; and by making technical amendments for style and clarity.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2567, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2567, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Aki, Anderson).

SCRep. 2651 Consumer Protection on H.B. No. 2598

The purpose of this bill is to revise the eligibility requirements for the medical licensing examination to provide that applicants for licensure shall be eligible for examination no sooner than the first year of residency, and no sooner than the second year of residency if graduated from a foreign medical school.

Your Committee finds that section 453-4, Hawaii Revised Statutes (HRS), provides that no person shall be licensed to practice medicine or surgery unless that person has passed an examination and possesses other necessary qualifications. Your Committee further finds that until recently, the United States Medical Licensing Examination (USMLE) has been administered nationally during the months of June and December which enabled medical students, who typically complete their residency programs during the month of June, to qualify for the first examination date of the year. However, beginning this year, the first administration of the examination will be in May rather than June, and thus, without an amendment to the law, applicants for licensure will be forced to wait for half a year to take the December examination and will be unnecessarily delayed in obtaining their licenses to practice medicine.

Your Committee has amended this measure by making nonsubstantive, technical changes for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2598, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2598, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Aki).

SCRep. 2652 Consumer Protection on H.B. No. 2647

The purpose of this bill is to establish a two-tier system that allows certain optometrists to prescribe and administer certain topical therapeutic pharmaceutical agents (TPAs).

Specifically, the bill:

- (1) Requires the Board of Medical Examiners to be responsible for the certification of optometrists to use TPAs, including the selection of an examination as the basis for certification;
- (2) Requires the Board of Medical Examiners, in consultation with the University of Hawaii Medical School to establish the TPA formulary. This is consistent with the prescriptive privileges law for advanced practice registered nurses;
- (3) Establishes a two-tier system allowing certain optometrists to prescribe and administer certain topical TPAs for selected conditions. Specifically:
 - (A) One tier would allow licensed optometrists who practice under the supervision of an ophthalmologist and have passed the examination selected by the Board of Medical Examiners to use TPAs; and
 - (B) The other tier would allow other licensed optometrists who are certified by the Board of Medical Examiners and have satisfied the clinical experience requirement to use TPAs except for the treatment of glaucoma;
- (4) Prohibits optometrists from removing foreign bodies from the eye or eye lids;
- (5) Requires the Board of Medical Examiners to submit an interim report to the Legislature regarding the status of the development of the formulary and certification requirements;
- (6) Requires the Board of Medical Examiners and the Board of Examiners in Optometry to submit a joint report to the Legislature regarding the administering, dispensing, and prescribing of TPAs; and
- (7) Includes a sunset provision that repeals the law on July 1, 2001.

Your Committee finds that the training and education of optometrists have increased significantly in recent times and that qualified optometrists should be allowed to utilize TPA's and remove foreign matter from the human eye under certain conditions. However, your Committee believes that this issue could be better addressed in a more statutorily-streamlined manner and, therefore, has amended the bill by deleting its substance and inserting therefor, provisions that:

- (1) Allow certified optometrists to utilize prescription TPAs for the treatment and management of conditions of the anterior segment of the human eye, eyelids, and lacrimal system;
- (2) Allow certified optometrists to remove superficial foreign bodies from the anterior segment of the human eye and eyelids;
- (3) Disallow the injection or oral dispensation of any prescription pharmaceutical agents;
- (4) Disallow the treatment of glaucoma;
- (5) Disallow the performance of invasive surgery;
- (6) Establish criteria for therapeutically certified optometrists; and
- (7) Establish a July 1, 1999, effective date.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2647, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2647, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Aki).

SCRep. 2653 Consumer Protection on H.B. No. 2789

The purpose of this bill is to prevent unfair and deceptive acts or practices with respect to "going out of business" sales by repealing the sunset clause on the enabling legislation and by clarifying when a notice of regulated sale is required.

Your Committee finds that the Office of Consumer Protection has utilized the Act to prevent merchants from advertising fictitious or endless liquidation promotions, and has found the law to be a useful enforcement tool. Your Committee further finds that there is a need to clarify the conditions under which a person must post notice of a regulated sale. Currently notice is required when a person has:

- (1) Inventory which includes one-hundred or more items each costing \$100 or more; and
- (2) Placed advertising having a list or fair market value of \$10,000 or more.

This bill requires notice when either condition exists.

Upon further consideration, your Committee has amended this measure by inserting a sixty day time limit upon the advertisement of merchandise for sale as a going out of business sale and limiting to one the number of going out of business sales that can be held within a 360-day period.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2789, H.D. 1, 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 H.B. No. 2789, H.D. 1, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Aki).

SCRep. 2654 Consumer Protection on H.B. No. 3086

The purpose of this bill is to enable motor vehicle rental companies to offer an additional fueling option to their customers.

Currently, motor vehicle rental companies (lessors) provide, by statute, a single refueling option in which the lessee is to return the vehicle with the same amount of fuel as when having taken delivery of the vehicle. If the lessee returns the vehicle with less fuel, the lessee is charged the prevailing market price, plus a surcharge of up to one-half of the market price.

This bill permits the lessors to provide an additional fueling option, but prohibits the lessor from paying a commission to its employees for selling any fuel charge options. A fuel charge option allows for the lessee to purchase a full tank of fuel at the time of taking delivery of the vehicle (pre-purchase the fuel) at the prevailing retail market price. With this option, the lessee has the convenience of returning the vehicle with any amount of fuel remaining. The lessee does not need to refuel the vehicle before returning it to the lessor and will not be charged by the lessor for any additional refueling.

Additionally, if the lessee drives less than 100 miles, and the lessee has not returned the vehicle with a full tank of fuel, the lessee's pre-purchase fuel charges shall be canceled, and the lessee will instead be charged a refueling fee at the market price plus a surcharge of up to one-half of the market price. In other words, if the vehicle is not driven far, the lessee will have returned the vehicle with a significant amount of pre-purchased fuel remaining in the fuel tank. Therefore, the lessor will cancel the pre-purchase option and only charge for the fuel needed to refuel the vehicle. Although the fuel will be more expensive than if the lessee had fueled the vehicle himself or herself, the total cost will be less than that of a pre-purchased full tank of fuel.

The pre-purchase fueling option is designed to be a convenience factor for those persons desiring to avoid having to refuel the vehicle themselves or incur the lessor's higher refueling fee. Generally, this option is utilized by persons renting a vehicle while on business, where a time schedule may preclude the opportunity to stop at a gas station before returning the vehicle. This option is widely offered by the major lessors on the mainland, and many business travellers are surprised that this option is not available in Hawaii.

This option is in addition to the current permissible fuel charges and your Committee believes there is merit in passage of this bill.

Your Committee amended this bill by changing the effective date of this measure to January 1, 3001, to ensure further consideration of this measure, and by making technical, nonsubstantive changes for purposes of style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3086, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3086, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Aki).

SCRep. 2655 Consumer Protection on H.B. No. 3096

The purpose of this bill is to establish minimum requirements for refunds, exchanges, and merchandise credits for goods returned to retail merchants.

Your Committee finds that existing statutes governing refunds, exchanges, and merchandise credits contain ambiguities and are difficult for consumers and merchants to understand and implement. As a result, problems relating to refunds and exchanges constitute one of the largest areas of complaint in the Office of Consumer Protection.

Your Committee believes that it is important to establish clearly defined minimum requirements for consumers and merchants alike, but believes that S.B. No. 2439, S.D. 1, a measure earlier passed by your Committee, is a more comprehensive means of accomplishing this objective.

Your Committee has therefore amended this measure by deleting all existing language and substituting the contents of S.B. No. 2439, S.D. 1.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3096, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3096, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Aki).

SCRep. 2656 Consumer Protection on H.B. No. 3148

The purpose of this bill is to permit insurance companies to invest their funds, up to an aggregate amount of ten per cent of their assets, in income producing real property, so long as certain terms and conditions similar to those which apply to an insurer's long-term lease arrangements are met.

Your Committee finds that under current law, insurers are limited to real property investments in a home office building, branch office buildings, and long-term leases of property. In the aggregate, an insurer may not invest more than thirty per cent of its assets in real property.

Your Committee supports this measure as a means of permitting insurance companies, under reasonable terms and conditions, to invest a portion of their assets in income producing property.

The State Insurance Commissioner, on behalf of the Department of Commerce and Consumer Affairs, offered testimony in support of the intent of this measure.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3148, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Aki).

SCRep. 2657 Consumer Protection on H.B. No. 3227

The purpose of this bill is to require sellers of credit life, credit accident and health, credit involuntary unemployment, or credit property insurance to satisfactorily pass a preclicensing exam in order to be issued a limited credit insurance license.

Your Committee finds that during the 1995 legislative session, Senate Bill No. 959, and House Bill No. 1217, which covered this same subject were passed. The Governor vetoed Senate Bill No. 959 after the Insurance Commissioner raised certain concerns. Your Committee further finds that during the interim, members of the Hawaii Financial Services Association met with the Insurance Commissioner to discuss the Commissioner's concerns, and revised the language in the bill by adding the preclicensing examination requirement. Your Committee notes that the Insurance Commissioner supports this bill.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3227 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Aki).

SCRep. 2658 Consumer Protection on H.B. No. 3291

The purpose of this bill is to clarify the requirements for coverage under the Hawaii Property Insurance Association (HPIA).

The HPIA was created statutorily in 1991 to provide basic property insurance (fire and extended coverage) for property vulnerable to destruction from volcanic activity. These properties would not otherwise be eligible for insurance in the conventional market. The "plan of operation" of the HPIA requires all authorized insurers of property or casualty insurance (excepting insurers writing only motor vehicle insurance) to jointly underwrite these policies.

This bill requires the HPIA to insure eligible properties under the plan of operation for at least the amount of the mortgage obligation of the mortgagor (property owner) but at most the value of the insured property.

Your Committee finds that this bill would ensure that affected property owners receive the fullest protection for their homes without excessive coverage. Therefore, in the event of a covered disaster, property owners would be able to pay off their mortgages if their homes are destroyed.

Your Committee has amended this bill by requiring that eligible properties be within reach of a workable fire hydrant and by changing the effective date to January 1, 3001.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3291, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3291, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Aki).

SCRep. 2659 Consumer Protection on H.B. No. 3394

The purpose of this bill is to eliminate the supervision and examination responsibilities of the Commissioner of Financial Institutions with regards to business development corporations. This bill also deletes an obsolete sunset provision of the Business Development Corporations law, Chapter 420, Hawaii Revised Statutes.

Your Committee finds that since business development corporations pose no safety and soundness risks, supervision and examination by the Commissioner are not necessary.

Your Committee further finds that because a business development corporation was organized on or before June 30, 1968, the sunset provision of Chapter 420 has been rendered ineffective and obsolete.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3394 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Aki, Iwase, Levin).

SCRep. 2660 Consumer Protection on H.B. No. 3396

The purpose of this bill is to consolidate the licensing and supervision of certain escrow depositories in the Division of Financial Institutions of the Department of Commerce and Consumer Affairs (Department).

Your Committee finds that under current law, insurance companies authorized to transact business in the State may operate as escrow depositories that are exempt from the requirements of the Escrow Depositories law, Chapter 449, Hawaii Revised Statutes. These exempt escrow depositories are regulated by both the Insurance and Financial Institutions Divisions of the Department.

Your Committee believes that for reasons of cost-effectiveness and efficiency, the regulation of insurance companies acting as escrow depositories should be consolidated as set forth in this measure.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3396 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Aki, Iwase, Levin).

SCRep. 2661 Consumer Protection on H.B. No. 3398

The purpose of this bill is to effectuate cost-savings and efficiency for both charitable organizations and the Business Registration Division (Division) of the Department of Commerce and Consumer Affairs by, among other things, eliminating the requirement for charitable organizations to file registrations or exemptions with the Division.

Your Committee finds that many nonprofit organizations do not understand the requirements or necessity for registration under current law. The 2,200 registrations currently on file with the Division represent only a very small percentage of the estimated number of nonprofit organizations that are engaging in activities that require registration under state law.

As a result of this uncertainty with respect to current registration requirements, the Division is being forced to utilize substantial funds and staff resources merely to respond to inquiries from potential registrants.

Your Committee believes that while it may be beneficial and cost-effective to eliminate the current registration requirement for small and medium-sized charitable organizations, important public disclosure concerns demand continued registration by large charitable organizations in the State.

Your Committee has therefore amended this measure by:

- (1) Deleting the repeal of section 467B-2, Hawaii Revised Statutes, dealing with filing requirements for charitable organizations;
- (2) Deleting the repeal of section 467B-11, Hawaii Revised Statutes, dealing with exemptions, and instead, for purposes of future discussion, changing from \$4,000 to an unspecified amount the annual gross receipt threshold amounts in that section; and

- (3) Making several technical, nonsubstantive changes for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3398, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3398, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 2 (Aki, Anderson).

SCRep. 2662 Consumer Protection on H.B. No. 3400

The purposes of this bill are to allow domestic corporations to amend and restate their articles of incorporation by complying with sections 415-49, 415-60, and 415-64, Hawaii Revised Statutes (HRS), and filing the amended and restated articles of incorporation with the Director of Commerce and Consumer Affairs, and to amend certain provisions of corporation law relating to filing requirements for voluntary dissolution.

This bill adds a new section to Chapter 415, HRS, which sets forth the requirements for amended and restated articles of incorporation by a domestic corporation. Under these provisions, the amended and restated articles of incorporation may be combined and filed together, rather than separately as articles of amendment and restated articles of incorporation. The bill also allows the inclusion of the indemnification provision in the initial filing of the articles of incorporation rather than filing a separate amendment after the initial filing has been completed.

Your Committee has made nonsubstantive, technical amendments for purposes of style.

Your Committee finds that the amendments contained in the bill will allow the Business Registration Division of the Department of Commerce and Consumer Affairs to provide improved and efficient service to the business community by allowing combined filings for amendments and restatements of articles of incorporation.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3400, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3400, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Aki, Iwase, Levin).

SCRep. 2663 Consumer Protection on H.B. No. 3401

The purpose of this bill is to allow foreign insurers to become certified rather than accredited.

This bill amends section 431:3-203.5, HRS, by replacing the term "accreditation" with the term "certification." As an insurance company seeking licensure in this State applies for a certificate of authority and undergoes certification procedures, the latter term more accurately reflects the nature of the process.

This bill also amends section 431:3-301, HRS, by replacing the term "penalty" with the term "fine." This amendment is necessary to conform this provision to other penalty provisions throughout the insurance code.

Your Committee has amended this bill to add provisions to:

- (1) Delete the requirement that the Insurance Commissioner approve the plan for recoupment by each member of the Property and Liability Insurance Guaranty Association; and
- (2) Allow the total assessment on insurers in the Hawaii Hurricane Relief Fund in the event of a loss from a covered event to be less than the amount established by the Board of Directors of the Hawaii Hurricane Relief Fund.

Your Committee finds that the approval requirement constitutes an unnecessary administrative delay in that sufficient regulatory safeguards already exist in the Insurance Code regarding the recoupment of assessments under Article 16. Your Committee believes that the bill will alleviate this undue delay while still maintaining adequate regulation of the insurance industry in this area.

Your Committee further finds that the existing law allows the Hawaii Hurricane Relief Fund Board of Directors to establish a minimum assessment amount in the event of losses for each covered event, not to exceed \$500,000,000. Deleting a minimum assessment amount (not specified) would allow more flexibility and equity in the assessments.

Technical, nonsubstantive amendments were made to the bill for purposes of style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3401, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3401, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 2 (Aki, Anderson).

SCRep. 2664 Consumer Protection on H.B. No. 3404

The purpose of this bill is to amend various sections of the insurance code relating to accident and sickness policies.

This administration bill would:

- (1) Amend the definition of "medicare supplement policy" to include the appropriate citation to federal statute and to clarify the reference to the federal Social Security Act, as required by 1994 amendments to the Social Security Act;
- (2) Clarify that provisions relating to medicare supplement policies do not prohibit or apply to insurance policies or health care benefit plans, to conform to the model law of the National Association of Insurance Commissioners (NAIC);
- (3) Reinstate language deleted in 1993 to allow the insurance commissioner to adopt rules to conform medicare supplement policies to the requirements of federal law;
- (4) Clarify that group policies issued through mail or mass media advertising are in fact group policies; and
- (5) Amend the disclosure standards law for the sale of medicare supplement policies to conform with the NAIC model law.

Your Committee received supporting testimony from the Insurance Commissioner to the effect that this bill is basically housekeeping in nature without altering existing substance.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3404 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Aki, Iwase, Levin).

SCRep. 2665 Consumer Protection on H.B. No. 3409

The purposes of this bill are to:

- (1) Allow the Office of Consumer Protection (OCP) to contract with any nonprofit organization for the performance of certain functions;
- (2) Reimburse financial institutions that are subpoenaed by the OCP the same amounts paid by the Department of the Attorney General;
- (3) Authorize employees of the OCP to engage in undercover investigations to collect evidence of unfair and deceptive acts or practices in trade or commerce; and
- (4) Repeal section 487-6, HRS, relating to consumer advisory councils.

This bill would resolve inconsistencies among various financial institutions for amounts charged to the OCP for labor and photocopy expenses relating to investigative subpoenas by setting the reimbursement at rates identical to those paid by the Department of the Attorney General.

Your Committee finds that often government agencies and their attorneys need to use undercover techniques to detect consumer fraud and many schemes cannot be effectively prosecuted without the use of these techniques. Your Committee notes that OCP's ability to conduct undercover operations would risk violations of the Supreme Court's Hawaii Rules of Professional Conduct if an attorney investigator were to solicit or receive information that would not otherwise be forthcoming if undercover techniques were used.

Your Committee further finds that the Consumer Advisory Council has been inactive for a number of years. The OCP does not use the Council because every citizen is a consumer who can provide information to the OCP.

Due to present budgetary constraints, your Committee believes that expanding the Department's ability to contract all nonprofit organizations is not appropriate at this time. Accordingly, your Committee has amended the bill by reinserting contracting restrictions to private nonprofit trade, professional, or business organizations as organizations the OCP may contract with to perform certain functions, and by making nonsubstantive, technical amendments for clarity and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3409, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3409, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Aki, Iwase, Levin).

SCRep. 2666 Consumer Protection on H.B. No. 3410

The purpose of this bill, as received by your Committee, is to make Hawaii law more consistent with federal regulations regarding off-premises or exhibition sales and door-to-door sales.

Your Committee finds that the retail food industry has expressed concern about the illegal sale of cigarettes and tobacco products to minors, and has requested that regulations be strengthened to monitor and reduce such illegal sales activities. Your Committee further finds that the strengthening of state regulations regarding the sales at retail of cigarettes and tobacco to minors will bring Hawaii into compliance with federal law, specifically the Synar Amendment.

While your Committee agrees that the State should adopt strong policies to support enforcement of such regulations, it is not the intent of the legislature to encourage, permit, nor sanction a county Liquor Commission to engage in entrapment by using minors in the enforcement of this Act. Further, your Committee also wishes to note that this Act does not preempt the counties from enacting restrictions on smoking as provided in chapter 328K, Hawaii Revised Statutes (HRS).

Therefore, upon further consideration, your Committee has amended this measure by deleting its contents and substituting the following provisions:

- (1) Establishing a system for licensing by the county liquor commission of persons who sell cigarettes and tobacco at retail;
- (2) Strengthening existing prohibitions against the sale and distribution of cigarettes and tobacco to minors;
- (3) Requiring the training of employees and providing notice of state laws prohibiting sales to minors;
- (4) Prohibiting the sale of individual and out-of-package cigarettes;
- (5) Restricting displays of cigarettes;
- (6) Limiting the sale of cigarettes and tobacco through vending machines;
- (7) Prohibiting the possession or consumption in public places of tobacco by minors;
- (8) Authorizing random, unannounced inspections of locations where cigarettes or tobacco products are sold at retail to assure compliance with Section 1926 of the Public Health Act (42 U.S.C. 300x-26);
- (9) Inserting conforming language regarding sales at retail of cigarettes and tobacco in appropriate sections of chapter 281, HRS, to authorize the various liquor commissions or liquor control adjudication boards to regulate such sales; and
- (10) Making the effective date July 1, 3001, for further discussions.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3410, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3410, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Aki, Levin).

SCRep. 2667 Consumer Protection on H.B. No. 3413

The purpose of this bill is to clarify the authority of the Department of Commerce and Consumer Affairs to file for injunctive relief in the circuit courts of the State.

This administration housekeeping bill clarifies that the authority to file for injunctions under section 603-23, Hawaii Revised Statutes, ultimately lies with the Director of Commerce and Consumer Affairs. Under existing law, that section provides that only the Director of the Office of Consumer Protection may seek injunctions for the violations of laws and ordinances. Although the Director of Commerce and Consumer Affairs is the Director of the Office of Consumer Protection, the statute, as presently constructed, precludes any other attorney working for the Department of Commerce and Consumer Affairs who does not represent the Office of Consumer Protection from filing for injunctions.

Your Committee believes that the amendment will remedy the situation and will result in more the efficient operation of the Department of Commerce and Consumer Affairs.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3413 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Aki, Iwase).

SCRep. 2668 (Majority) Consumer Protection on H.B. No. 3414

The purpose of this bill is to make the laws on advertising by motor vehicle dealers consistent with the general rules of unfair or deceptive practices in advertising.

This administration bill would delete the terms "wholesale", "free", and "cost" from among the terms that are considered to be false, deceptive, or misleading regarding pricing in any retail motor vehicle advertising.

Your Committee finds that the term "wholesale" is common parlance in the minds of consumers and does not necessarily create confusion. That term is not technically used in the trade by dealers since there is no wholesale price for a vehicle and should be a prohibited term along with "free". Your Committee further finds that the term "cost" is used in the trade and should not be considered as a prohibited term in advertising.

Your Committee has amended the bill by retaining "free" and "wholesale" as terms to be considered false, deceptive, or misleading.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3414, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3414, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, 1 (Levin). Excused, 2 (Aki, Iwase).

SCRep. 2669 Consumer Protection on H.B. No. 3417

The purpose of this bill is to eliminate the licensing requirement for motor vehicle auctioneers, manufacturers, factory branches, factory representatives, distributors, distributor branches, and distributor representatives, and permit temporary licensing of dealer applications by the executive officer of the motor vehicle industry licensing board until the board approves or denies the application for a permanent license.

Your Committee finds that federal regulation of manufacturers, distributors and their related branches and representatives is more than adequate to offset the elimination of state regulation.

Your Committee notes that auctioneers normally do not work on commission and do not sell or deal directly with the consuming public making licensing unnecessary.

Your Committee further notes that the low number of consumer complaints against manufacturers, distributors, their branches and representatives, and auctioneers does not warrant continued state regulation by licensure.

Your Committee has amended the bill by deleting its contents and replacing it with the contents of S.B. No. 2749, S.D. 1.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3417, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3417, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Aki, Iwase).

SCRep. 2670 Consumer Protection on H.B. No. 3419

The purpose of this bill is to allow applicants from other states to acquire a license to practice medicine in Hawaii by passing the Special Purpose Examination (SPEX) and meeting the requirements of section 453-4(b), Hawaii Revised Statutes.

Your Committee finds that both the National Board of Medical Examiners examination and the Federation Licensing Examination (FLEX) were discontinued and replaced by the United States Medical Licensing (USML) Examination. The USML is not open to foreign physicians.

Your Committee further finds that the SPEX was developed by the Federation of State Medical Boards and is a practicable alternative to the discontinued FLEX. SPEX is an objective and standardized cognitive measure that assists licensing jurisdictions in their assessment of competence of physicians who are licensed in other jurisdictions but have never taken a national examination.

Your Committee has amended this bill as requested by the Board of Medical Examiners to require applicants to have one year of residency, and two years of residency if a graduate of a foreign medical school. Your Committee has also clarified that applicants licensed in another state must have been so licensed by virtue of having passed a state-produced examination.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3419, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3419, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Aki, Iwase).

SCRep. 2671 (Joint) Consumer Protection and Ways and Means on H.B. No. 3427

The purpose of this bill is to include property and casualty insurers in the regulatory requirements for risk-based capital for life and health insurers.

Act 190, 1994, created the regulatory framework for life and health insurers investing in risk-based capital, which was a product of the model act promulgated by the National Association of Insurance Commissioners' (NAIC) Risk-Based Capital for Life and Health Insurers. Risk-based capital provides a flexible means of setting the capital requirements for insurance companies, versus the conventional fixed minimum capital and surplus requirements which do not increase with higher investments and other risks of the company. There are stringent formulas for assessing the financial solvency of an insurance company engaging in risk-based capital.

Regulating risk-based capital of insurance companies allows the Insurance Division of the Department of Commerce and Consumer Affairs to initiate appropriate regulatory actions against companies showing signs of weak or deteriorating conditions as indicated in their risk-based capital reports.

According to the Insurance Commissioner, applying the risk-based capital standard to property and casualty companies in addition to life and health insurance companies is part of the accreditation requirement of the NAIC. Hawaii is one of only four states not accredited.

Your Committees have amended this bill to change the effective date to January 1, 3001, to continue discussion on this bill and to make technical, nonsubstantive amendments for clarity and style.

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Ways and Means that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3427, H.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3427, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairmen on behalf of the Committees.

Ayes, 11. Noes, none. Excused, 7 (Aki, Bunda, Kanno, Kawamoto, Solomon, Tanaka, Anderson).

SCRep. 2672 Consumer Protection on H.B. No. 3430

The purpose of this bill is to repeal unnecessary as well as unused statutes relating to the licensing of solicitors.

Your Committee finds that several counties as well as the Department of Commerce and Consumer Affairs have shown that they do not issue licenses for solicitors. The City and County of Honolulu has not issued a solicitor's business license since fiscal year 1983.

Your Committee further finds that a Federal Trade Commission rule protects consumers from deceptive and abusive telemarketing practices. The rule delineates specific prohibitions for telemarketing activity, and is enforceable by the states as well as by the Federal Trade Commission.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3430 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 2 (Aki, Iwase).

SCRep. 2673 Consumer Protection on H.B. No. 3623

The purpose of this bill is to revise and update Article 5 (letters of credit), and related sections of Article 1 (general provisions), Article 2 (sales), and Article 9 (secured transactions), of the Uniform Commercial Code.

This bill repeals Article 5 of Chapter 490, Hawaii Revised Statutes, and replaces it with a revised and updated version. The passage of time and advancement of technology necessitate modification of the statutes to reflect the use of electronic technology, evolving standards of business practice, and other changes in the business community.

Your Committee finds a letter of credit is an important and widely used transaction tool in international trade. The updated version of Article 5 as provided in this bill will assist Hawaii's companies to successfully conduct their transactions, remain competitive, and protect their legal rights under the Hawaii Revised Statutes.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3623, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.

Ayes, 6. Noes, none. Excused, 1 (Aki).

SCRep. 2674 Consumer Protection on H.B. No. 3760

The purpose of this bill is to allow a pure captive insurance company to be included in the definition of affiliated company for purposes of the captive insurance companies law.

A pure captive insurance company is a company that operates an insurance program to insure risks of its parent or affiliated companies. An analogy would be self-insurance. Captive insurance companies usually are formed by large corporations such as Nissan, Marriott, Transamerica, Nestle, and Occidental Petroleum, all of whose captive insurance companies are licensed in Hawaii. This bill would include pure captive insurance companies in the definition of affiliated companies if the insured risks of the affiliated companies are similar to the risks insured by the captive company.

Affiliated companies are companies in the same corporate system as a parent company, e.g., a conglomerate. By expanding the definition of affiliated companies to include pure captive insurance companies, more captive insurance companies would be attracted to become licensed in this State, particularly the larger captives.

This bill also requires that the examination reports of the insurance commissioner of any pure captive insurance company shall remain confidential subject to public interest.

Your Committee finds that Hawaii is currently the second largest captive insurance domicile in the United States and is gaining worldwide recognition as a principal place of business for captive insurance companies. This bill would promote and stimulate this lucrative industry, to the benefit of Hawaii's economy.

Your Committee has amended this bill to change the effective date to January 1, 3001, and to make technical, nonsubstantive amendments.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3760, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3760, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Aki).

SCRep. 2675 Consumer Protection on H.B. No. 3785

The purpose of this bill is to require disclosure of health care coverage and benefits to current and prospective policyholders.

This bill covers insurance contracts in general, mutual benefit societies, and health maintenance organizations. The required written disclosure is of coverages, benefits, exclusions, and restrictions on coverages, and information on evaluation and treatment policies for specific conditions.

Your Committee finds that the disclosures required by this bill serve to protect the consumer in choosing a health insurance program prior to issuance of a policy, and in deciding to stay with one insurance carrier or to evaluate a carrier after the issuance of a policy.

Your Committee has amended this bill on recommendation of Kaiser Permanente to delete reference to information on evaluation and treatment policies for specific conditions, since this terminology is too vague to apply in practice.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3785, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3785, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Aki).

SCRep. 2676 Consumer Protection on H.B. No. 3809

The purpose of this bill is to require that signs prohibiting the sale of tobacco products to persons under eighteen, in letters at least one-half inch high, be posted near the point of sale of any location where tobacco products are sold.

Testimony in support of this bill was submitted by the Department of Health, the American Lung Association, the Hawaii Medical Association, Kaiser Permanente, the Hawaii Nurses' Association, and the Hawaii Food Industry Association.

Currently signs in letters one inch high are required to be posted in locations, other than on or near vending machines, where tobacco products are sold. These signs are often too large to post near the point of sale. The minimum size of the required lettering of a sign which can be posted at the point of sale is being reduced to one-half inch, the size required for vending machines. It is hoped that these signs will be a more effective deterrent to the illegal sale of tobacco products to minors if they are required to be posted near the point of sale.

Your Committee has amended the bill by changing the effective date to January 1, 3001, for further discussion.

As affirmed by the record of votes of the members of your Committee on Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3809, 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. 3809, H.D. 1, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Aki).

SCRep. 2677 Judiciary on H.B. No. 3350

The purpose of this bill is to allow for the court approved direct payment of child support between parents as an exception to income withholding requirements to ensure support payments.

This bill also conforms to federal law the circumstances under which Child Support Enforcement Agency services are available.

Your Committee finds that such conformity is important because it affects the federal financial participation available for the Child Support Enforcement Agency.

Your Committee also finds that present state law requires all child support payments to be made through the Child Support Enforcement Agency by means of wage withholding. Your Committee believes there are some divorce and paternity situations where the parties are amicable and would prefer to bypass the Child Support Enforcement Agency in paying and receiving child support. Moreover, such direct payment may result in child support being received faster, especially when the obligor parent works for a corporation whose fiscal operations are based on the mainland. Your Committee notes that federal law allows for the alternative arrangement of direct payment of child support in certain situations.

Upon further consideration, and to ensure that sufficient safeguards exist with respect to alternative arrangements of direct payment, your Committee has amended this bill by:

- (1) Providing that the Child Support Enforcement Agency may void the direct payment arrangement if the subject children began receiving aid to families with dependent children assistance or are placed in foster care;
- (2) Requiring the alternative arrangement agreement to include the most recent addresses of the non-custodial and custodial parents;
- (3) Providing that if the subject children began receiving aid to families with dependent children assistance, the non-custodial parent has the burden of proving by clear and convincing evidence that child support payments were made to the custodial parent;
- (4) Adding a cross reference to section 571-52.3, Hawaii Revised Statutes, as an instance in which income withholding is required;
- (5) Amending the title of section 576D-10 to reflect its amended contents and reorganizing, for purposes of style and clarity, the section's new language into separate subsections instead of paragraphs under subsection (c); and
- (6) Making a few technical nonsubstantive changes for purposes of style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3350, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3350, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (McCartney, Anderson).

SCRep. 2678 Ways and Means on H.B. No. 2452

The purpose of this bill is to require the Director of Finance to establish a committee to develop and recommend a proposal to implement an employer-union trust concept for determining and administering public employee and retiree health benefits.

The committee, representing state and county employers, current and retired public employee organizations, and the public employees health fund, is to report to the legislature twenty days before the convening of the regular session of 1997.

This bill repeals chapter 87, Hawaii Revised Statutes, relating to the public employees health fund, only upon the enactment of legislation that establishes an employer-union trust structure and identifies and transfers any remaining public employer financial obligations under chapter 87 to appropriate areas of law. Finally, this bill prohibits the health fund from expending further moneys that are unencumbered as of April 1, 1996, upon upgrading its existing computer system.

Your Committee finds that health benefits are established statutorily and administered by an independent board of trustees within a fixed statutory framework. Employer contributions, however, are negotiated separately through collective bargaining agreements. This lack of connection between benefit levels and costs results in benefit packages that do not minimize costs nor meet the needs of public employees. Public employee organizations should be involved in determining health care coverage and costs. Your Committee finds that the employer-union trust concept for determining and administering health benefits provides the mechanism for linking benefit levels and costs and the necessary flexibility to establish appropriate health benefits coverage.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2452, H.D. 3, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2679 Ways and Means on H.B. No. 2642

The purpose of this bill is to clarify certain provisions of the public employees' health fund law concerning employees who are required to make partial contributions to the fund for health insurance coverage after retirement.

Under this bill:

- (1) Rate credits and reimbursements from insurance carriers must be used only to provide benefit plans to public employees;
- (2) The date of hire used to determine whether an employee must make partial contributions for retiree health benefit premiums is changed from July 1, 1996 to June 30, 1996;
- (3) The requirement of partial contributions from employees hired after June 30, 1996 is not applicable to employees hired prior to July 1, 1996 who separate from service after June 30, 1996 but are then rehired within seven calendar days; and
- (4) Years of prior service of employees who return to service after June 30, 1996 and then retire is computed and credited in the same manner as is set forth in chapter 88, Hawaii Revised Statutes, for the Employees' Retirement System.

Your Committee believes that these amendments are necessary to clarify the intent of Act 217, Session Laws of Hawaii 1995, which required employees hired after July 1, 1996 to make a partial contribution to their retiree health benefit premiums.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2642, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2680 Ways and Means on H.B. No. 2644

The purpose of this bill is to adjust the manner in which the State and counties' normal cost and accrued liability contributions are calculated by the Employees' Retirement System.

Specifically this bill:

- (1) Repeals the provision that requires the earnings of the Employees' Retirement System that is in excess of the statutorily established investment yield rate be credited against the employers' contributions to the system; and
- (2) Extends the actuarial valuation of eight per cent for the Employees' Retirement System investment yield rate to June 30, 2000 and lowers the assumed salary increase from six and one-half to four per cent.

Your Committee has amended this bill by repealing only the language on excess earnings used to meet unfunded pension liability obligations instead of repealing the requirement that the amounts contributed to the pension accumulation fund by the employers be reduced by investment earnings in excess of the investment yield rate. Your Committee is also reinstating the paragraph requiring the legislature to evaluate the allocation and distribution of investment earnings in excess of the investment yield rate and make appropriate adjustments every five years.

Although the future strength of the Employees' Retirement System is important to the beneficiaries and to the membership in general, your Committee needs to find ways to address the current fiscal shortfall and feels this bill will assist the State in strengthening its current economic situation.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2644, 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. 2644, H.D. 1, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2681 Ways and Means on H.B. No. 3332

The purpose of this bill is to allow the Department of Agriculture to accept a junior mortgage as security for an agriculture loan if there is adequate equity to support the loan and there are no prior liens that may jeopardize the security position of the department or the borrower's ability to repay.

Your Committee has amended this bill by deleting its contents and inserting a measure that would allow resident guide dogs, service dogs, and signal dogs (collectively defined as "utility dogs") and their handicapped handlers to depart from and return to the State for travel to and from the continental United States or Alaska to obtain critical medical treatment for the handicapped handler, without the need for quarantine, subject to specific requirements.

The requirements are as follows:

- (1) Two killed rabies vaccines must be administered to the resident utility dog by a veterinarian in a specific manner;

- (2) The handicapped handler of the resident utility dog must obtain a small animal health certificate, endorsed by the United States Department of Agriculture, prior to the dog's departure from the State;
- (3) The handicapped handler of the resident utility dog must obtain a signed affidavit from a veterinarian, attesting to the fact that an identifying microchip, tattoo, or other mark has been implanted, tattooed, or otherwise imprinted, respectively, in or on the dog, prior to the dog's departure from the State;
- (4) The resident utility dog must be tested for the presence of a protective, rabies virus, antibody titer prior to the dog's departure from the State, using the Office of International Epizootics' fluorescent antibody virus neutralization test method; and the results of the test must be approved by the Department of Agriculture;
- (5) The handicapped handler of the resident utility dog must obtain an affidavit documenting the nature of the handler's handicap and attesting to the fact that both handler and dog have successfully completed a training course for utility dog teams;
- (6) The resident utility dog will be detained by quarantine officials and must be tested for the presence of a protective, rabies virus, antibody titer using the Office of International Epizootics' fluorescent antibody virus neutralization test method upon reentry into the State; and the results of the test must be approved by the Department of Agriculture;
- (7) In no case will a resident utility dog be subjected to any length of stay beyond what is considered to be absolutely necessary in determining the validity of the test results;
- (8) A resident utility dog yielding a protective rabies virus antibody titer and certified as being in good health by a veterinarian may be permitted to return to interaction with the general public;
- (9) The cost of implementing these procedures, and all personal expenses incurred by the handicapped handler of a resident utility dog in complying with these procedures, must be borne by the handler;
- (10) The handicapped handler must obtain a notarized statement from the handler's physician describing the nature of the handler's illness or injury and the necessary medical treatment that is being sought in the continental United States or Alaska; and
- (11) The governor, by executive order, must instruct the Department of Agriculture to allow the resident utility dog and its handicapped handler to depart from and return to the State for travel to and from the continental United States or Alaska to obtain necessary medical treatment for the handicapped handler without the need for quarantine.

In addition, this measure:

- (1) Subjects a resident utility dog to immediate seizure and quarantine at the owner's expense and provides for the imposition of a maximum fine of \$10,000 per offense, if the foregoing requirements are not met;
- (2) Requires a resident utility dog that is absent from the State for longer than six months or that does not possess a protective, rabies virus, antibody titer, to be quarantined upon the dog's return to the State; and
- (3) Denies a violator subsequent permission to return to the State with a resident utility dog for up to ten years unless the dog is placed in quarantine upon the dog's return to the State.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3332, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3332, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 2 (Solomon, Liu).

SCRep. 2682 Ways and Means on H.B. No. 3498

The purpose of this bill is to allow the Director of Health to appoint, exempt from civil service requirements and subject to designated salary caps, certain Hawaii State Hospital positions.

The positions include an administrator, a clinical associate hospital administrator, an associate hospital administrator for quality assurance, an associate hospital administrator for administration, a risk manager, a patients' rights advisor, and a facilities plant engineer.

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

- (1) Creating a children's mental health services division to replace the existing branch, replacing delivery of services by nonprofit agencies with a private managed care organization under contract to the Department of Health, and requiring the division to oversee execution of the contract;
- (2) Eliminating the children's mental health services teams and their functions within each community mental health center;

- (3) Requiring the division, rather than the teams, to coordinate with the schools to identify and refer children for mental health services, and making the Department of Health responsible for carrying out the terms of any adjudication or settlement of any legal action involving children's mental health;
- (4) Eliminating the statewide interdepartmental cluster for services to children; and
- (5) Authorizing the Director of Health to create twenty positions exempt from civil service requirements in HTH495 to implement the purpose of providing mental health services for children; provided that these positions are eliminated on July 1, 2001.

Your Committee received testimony from the HGEA/AFSCME opposing the privatization of mental health services for children. However, your Committee finds that these amendments will improve the delivery of mental health services in Hawaii not only in the State Hospital, but also for children requiring mental health services.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3498, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3498, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 2 (Bunda, Tanaka).

SCRep. 2683 Ways and Means on H.B. No. 3611

The purpose of this bill is to allow for the acquisition of two years of military service credit for purposes of the Employees' Retirement System after ten years of credited service, instead of eight years of service.

Your Committee finds that under present law, while members of the Employees' Retirement System with two years of credited military service are eligible to retire after only eight years of credited service, noncontributory members without military service credit cannot retire until after ten years of credited service. This bill removes this inequity by increasing, from eight to ten years, the number of years of credited service that Employees' Retirement System members with honorable active military service in the United States armed forces must have to be eligible for two years of membership service credit. Your Committee finds that this amendment ensures greater fairness by requiring all Employees' Retirement Service members to first vest before becoming eligible for increased benefits for past service.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3611, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2684 Ways and Means on H.B. No. 3616

The purpose of this bill is to make permanent the State's pilot leave sharing program.

Your Committee finds that the pilot leave sharing program was established by Act 157, Session Laws of Hawaii 1993, to allow qualified public employees to obtain leave credits through the donations of leave credit by other public employees. The pilot leave sharing program is set to terminate on June 30, 1996.

Your Committee further finds that the pilot leave sharing program has had a humane and beneficial impact on public employees suffering from personal illness or injury, by allowing such employees to accept donations of leave credits by fellow employees. Your Committee believes that this very worthwhile program should be made permanent.

Your Committee has changed the effective date of this bill from June 30, 1996 to June 29, 1996, to ensure that the bill will take effect prior to the repeal of the amended law.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3616, 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. 3616, H.D. 1, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2685 Ways and Means on H.B. No. 3881

The purpose of this bill is to support agricultural research and development in Hawaii by expanding the research areas and activities eligible to receive agricultural research and development funding from the State. The bill also requires the Governor's Agriculture Coordinating Committee to expedite various research and development projects currently underway.

Your Committee finds that research is fundamental to the future of agriculture in Hawaii. Agricultural research plays a critical role in improving crop yields and enabling the start of new agricultural ventures. Although limited research and development funds were allocated by the Legislature during the 1995 session, your Committee believes that it is important to address the broader needs of the industry in the State. This bill appropriates funds to address the broad range of areas in the field of agriculture that require research and development assistance.

To enable further discussion on the amount of funds needed to carry out the foregoing research and development projects, your Committee has amended this bill by replacing the appropriations proposed for fiscal year 1996-1997 with blank amounts.

Your Committee has further amended this bill by inserting an appropriation of \$1,000,000 for agricultural research and development purposes by the Hawaii Agriculture Research Center. The release of these funds has been made contingent upon the contribution of matching funds.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3881, 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. 3881, H.D. 2, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2686 Ways and Means on H.B. No. 4008

The purpose of this bill is to increase the maximum term for class E agricultural loans from three to seven years.

The bill also changes the percentage of applicant board members and shareholders of corporations and cooperatives who are required to meet eligibility requirements from seventy-five per cent to a simple majority.

Your Committee finds that, given today's economy, a longer maximum loan term is justified as it will permit lower monthly payments and enable more qualified applicants to participate in the loan program.

Your Committee has amended the bill by reinstating the provision that seventy-five per cent of both the board and membership of the applicant cooperative or corporation meet the eligibility requirements, rather than merely a majority.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4008, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 4008, H.D. 1, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2687 Ways and Means on H.B. No. 401

The purpose of this bill is to consolidate environmental management functions and employees of state government into an environmental protection department.

Your Committee finds that environmental protection is a desirable state goal. The State has strongly supported the environmental health through various programs, including the institution in 1994 of an environmental health program enhancement and education fund. This temporary fund enables essential environmental health programs to retain the fees they are authorized to collect to be used for staff training, public outreach and education, and planning for future growth and expansion.

Your Committee has amended this bill by removing its contents entirely and replacing it with language that would extend the sunset date of the environmental health program enhancement and education fund from July 1, 1996 to July 1, 2000.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 401, 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. 401, H.D. 2, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2688 Ways and Means on H.B. No. 3101

The purpose of this bill is to change the registration and reregistration periods for condominium managing agents and associations of apartment owners from an annual basis to a biennial basis.

The bill also makes various housekeeping amendments to chapter 514A, Hawaii Revised Statutes, relating to condominium property regimes for purposes of clarity and conformity.

Your Committee finds that changing the registration and reregistration periods for condominium managing agents and associations of apartment owners to a biennial basis will conform with the Department of Commerce and Consumer Affairs' existing reregistration cycle system, thus ensuring a more consistent process and saving resources for the Real Estate Commission.

Your Committee further finds that this change will save resources for condominium managing agents and associations of apartment owners, especially for those with no changes to their registration information. Because condominium managing agents are required to have a real estate broker license, this change will make the registration of condominium managing agents concurrent with the biennial licensing renewals of real estate brokers. Also, this change will result in more current information being entered on association of apartment owners' registration and reregistration forms and will eliminate the present situation in which many associations of apartment owners have to report additional changes to the

Commission within months of filing their reregistration forms. This situation arises because most associations of apartment owners hold their annual meetings between January and June, during which key decisions on officers, budget, and other pertinent issues are made.

Your Committee finds that the various housekeeping amendments are necessary to:

- (1) Clarify that the Commission has no authority over voidable sales pursuant to section 514A-69, Hawaii Revised Statutes, which provides for a private cause of action;
- (2) Conform and make consistent language on penalties and collection of fines under chapter 514A, Hawaii Revised Statutes;
- (3) Ensure, with respect to any condominium project over a year old but for which an association of apartment owners has yet to be organized, that the Commission receives pertinent information concerning the project and that other requirements are met; and
- (4) Ensure that a written management contract contains all terms of the management agreement and that copies of the contract are made available to apartment owners.

Your Committee has amended this bill by:

- (1) Adding a new section 10 to provide that any fee imposed pursuant to section 6, 7, or 9 of the bill not exceed the existing fee amount required to be paid for the same purpose as of April 1, 1996;
- (2) Renumbering the remaining sections consecutively; and
- (3) Making technical, nonsubstantive changes for purposes of style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3101, 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. 3101, H.D. 2, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2689 Ways and Means on H.B. No. 3602

The purpose of this bill is to exempt the Maunalaha subdivision of Makiki Heights on Oahu from all state and county subdivision and housing development standards.

Additionally, this bill requires the Office of Hawaiian Affairs to submit status reports on native Hawaiian self-help efforts at rebuilding and upgrading their homes under this exemption.

Your Committee finds that state lessees in Maunalaha live in substandard housing. They have not been able to upgrade or rebuild their homes because they are unable to qualify for loans. They do not qualify for loans because the infrastructure is deemed substandard and the land is not theirs in fee.

These lessees hold long-term leases of public land granted to them under Act 225, Session Laws of Hawaii 1981. Prior to Act 225, residents of Maunalaha had lived in Maunalaha under leases with thirty-day relocation restrictions. These thirty-day restrictions had proved to be a barrier toward obtaining home improvement financing. The intent of Act 225 was to remove that barrier by authorizing long-term leases. Your Committee now finds that the intent of the Act has been frustrated. The barrier still remains. The mere lengthening of the lease terms was evidently inadequate to remove it. Your Committee believes that the additional measure of granting a subdivision and housing development exemption will finally remove the lessees' barrier toward financing their rebuilding and improvement efforts. It will also serve to fulfill the intent of Act 225.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3602, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 4 (Bunda, Kanno, Tanaka, Liu).

SCRep. 2690 Ways and Means on H.B. No. 3293

The purpose of this bill is to direct the Department of Land and Natural Resources to review the provisions of chapter 171, Hawaii Revised Statutes, regarding public lands.

Specifically, this bill requires the Department to conduct public hearings across the State to determine the concerns and problems faced by lessees, and to submit a status report before the convening of the regular session of 1997 and a final report including findings, recommendations, and proposed implementing legislation to the Legislature twenty days before the convening of the regular session of 1998.

Your Committee has amended this bill by appropriating \$1 to promote continuing discussion of this issue. Your Committee feels that a comprehensive evaluation and analysis of chapter 171 is needed to consider the needs of lessees relating to agricultural leases. Your Committee intends that the Department listen to the farmers, some of whom have

faced tremendous increases in lease rents. Some farmers feel that the Department lacks a comprehensive clear policy for the appraisal methods used for agricultural leases. Because diversified agriculture is a mainstay for Hawaii, agricultural leases that enhance this industry are particularly important.

Your Committee realizes that a statewide collection of information cannot occur without some financial assistance but during this tight fiscal period any appropriation must be balanced carefully against all of the State's needs. With continued discussion, a proper balance can be achieved.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3293, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3293, H.D. 1, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 2 (Bunda, Tanaka).

SCRep. 2691 Ways and Means on H.B. No. 3534

The purpose of this bill is to integrate the harbor patrol program into the statewide commercial harbors program by transferring those functions from the Department of Public Safety to the Department of Transportation.

Specifically, this bill removes the responsibility for certain law enforcement functions from the Department of Public Safety and specifically includes the enforcement of the commercial harbor law under the jurisdiction of the Department of Transportation. This transfer will integrate the enforcement programs and the commercial harbors program to provide better control and efficiency in enforcing commercial harbor laws and rules.

Your Committee agrees with the intent of this measure but is concerned about its fiscal impact upon the Department of Transportation. Therefore, your Committee has amended the bill by removing the provisions: (1) providing for transferred employees who do not have tenure to become civil service employees without necessity of examination; and (2) retaining tenured employees whose offices or positions are abolished.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3534, 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. 3534, H.D. 2, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 2 (Bunda, Tanaka).

SCRep. 2692 Ways and Means on H.B. No. 3766

The purpose of this bill is to extend to June 30, 1997, the executive's authorization to expend government assistance funds previously appropriated by the Legislature for the benefit of the Big Island's Hilo-Hamakua community.

Specifically, this bill extends the authorization to expend funds previously appropriated:

- (1) To provide low-interest loans to employees and former employees of the Hilo Coast Processing Company and the Hamakua Sugar Company and former employees of Mauna Kea Agribusiness Company, sugar division, to provide for the payment of their monthly mortgage loan payments;
- (2) To enable the Housing Finance and Development Corporation to develop and implement a grant program to address administrative, maintenance, and critical infrastructure improvement costs to ensure the continued operation of Hamakua Sugar Plantation Camp housing units;
- (3) To assist the Hilo-Hamakua community for the following purposes:
 - (A) Resource/Family/Youth centers with outreach workers and counseling services, and development of a child care services system;
 - (B) Newspaper and community bulletin board;
 - (C) Agricultural infrastructure development;
 - (D) Aquaculture and community-based agricultural programs;
 - (E) Primary health care center subsidies;
 - (F) Transitional support employment and training for dislocated workers; and
 - (G) Hamakua community liaison position;
- (4) For the continued operation of the lower Hamakua ditch to ensure a source of water for Hamakua farmers as set forth in the Bankruptcy Settlement Agreement;
- (5) For various agricultural projects not funded by the United States Department of Defense and the Agribusiness Development Corporation;
- (6) For the hiring of an agricultural specialist and an aquacultural specialist;

- (7) To create sustainable and expandable systems for community-based economic development in the following manner:
- (A) Facilitate the rebuilding of a healthy Hilo-Hamakua economy through continued operation of the Hilo-Hamakua community liaison office;
 - (B) Support the Hilo-Hamakua Community Development Corporation in its efforts to establish a funding mechanism for the long-term needs of the community that is eventually self-generating and self-sufficient;
 - (C) Begin new, viable small businesses by providing seed and start-up capital to individuals who cannot qualify for traditional loans from conventional lending institutions through an economic development micro-enterprise loan and grant program;
 - (D) Decrease the formidable physical dimensions of the Hilo-Hamakua community through an electronic project management and communications system;
 - (E) Preserve the cultural heritage of the region and develop viable enterprises and job opportunities related to cultural heritage by implementing the cultural heritage corridor concept in four communities;
 - (F) Support the needs of area residents as well as support the development of small businesses through various services provided by the community communications and work center located at Kalaniana'ole School; and
 - (G) Award microloans;
- (8) To provide wage-subsidized training opportunities for displaced sugar workers in skilled occupational areas;
- (9) For the Hamakua-Hilo Coast Teleservice/Telework Center to continue the promotion of electronic communications applications, including e-mail and teleconferencing, and to develop new computer-related work skills and training for the local work force;
- (10) For the continuation of the Hilo-Hamakua support program to provide a variety of services, including:
- (A) Outreach and information and referral to families and other persons impacted by the closure of the two sugar companies;
 - (B) The assistance provided by the Hamakua and Hilo Coast resource centers and satellites in north Hilo and Paauilo;
 - (C) Programs and support for children and youth;
 - (D) Assistance to groups and communities to participate in community planning regarding economic development, diversified agriculture, housing, and employment and training;
 - (E) The promotion of collaborative efforts with other service providers;
 - (F) Transportation services; and
 - (G) The dissemination of information through various means, including a community newspaper;
- and
- (11) For the provision of the following services for rural South Hilo: health assessments, information/referral assistance, short-term interventions, health education/monitoring, and activity coordination.

In addition, this bill also repeals the law requiring the Housing Finance and Development Corporation to develop a special rental subsidy program for employees, former employees who are in transition to other employment, and retirees of the Hamakua Sugar Company who are currently residing in the plantation camp areas.

Your Committee has amended this bill by elaborating on the purpose of this bill and making technical, nonsubstantive changes for purposes of consistency.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3766, 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. 3766, H.D. 2, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 2 (Bunda, Tanaka).

SCRep. 2693 Ways and Means on H.B. No. 4074

The purpose of this bill is to permit the Board of Land and Natural Resources to enter into negotiations regarding a land exchange involving private lands owned by the George Galbraith Estate north of Wahiawa, Oahu, and public lands.

Your Committee finds that the proposed land exchange involving the Galbraith lands and public lands in Kapolei was raised during the 1994 legislative session with the enactment of Act 177. In 1995 the bill which would have extended the effective date of Act 177 was vetoed by the Governor because of environmental liability concerns.

Your Committee believes that there still may be merit in this idea because the State is committed to providing additional agricultural lands in central Oahu and would like to see the Board of Land and Natural Resources proceed with negotiations for this transfer. Further, by requiring the Board of Land and Natural Resources to submit a report to the 1997 regular session of the Legislature, which includes specific answers to issues surrounding the land exchange, your Committee believes that these concerns may be moderated.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4074, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 2 (Bunda, Tanaka).

SCRep. 2694 (Majority) Ways and Means on H.B. No. 3341

The purpose of this bill is to authorize the Governor to convert the payroll payment basis for public officers and employees from predicted payroll to after-the-fact payroll.

Specifically, this bill allows the Governor to make a one-time once a month payroll payment to government workers, provided the Governor first consults with union representatives and gives reasonable notice of the conversion.

Additionally, this bill also requires the Department of Human Resources Development to assist employees experiencing financial hardship because of the conversion. It further prohibits nondisciplinary layoffs and terminations in a fiscal year in which the after-the-fact payroll is established, and immunizes prospective retirement benefit calculations from the payroll payment conversion.

Your Committee has amended this bill by eliminating the following:

- (1) The requirement that the Governor first consult with union representatives before converting the payroll basis; and
- (2) The prohibition against nondisciplinary layoffs and terminations.

Your Committee has further amended this bill by changing the effective date from June 30, 1997 to the date of its approval, and changing the report to the 1997 regular session.

Your Committee finds that the State's current fiscal crisis requires a reform of ongoing operations and practices, including fiscal management in line with the private sector, in order to conserve and more effectively utilize state financial resources. Your Committee believes that a viable option to pursue is a conversion of the State's payroll payment basis from one of before-the-fact (predicted) to one of after-the-fact. An after-the-fact basis will allow the State to reconcile accounts prior to actual payments, and thus significantly reduce salary overpayments. Overpayments are endemic to the before-the-fact basis. In addition, the conversion will result in a one-time anticipated savings of approximately \$47,000,000.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3341, 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. 3341, H.D. 2, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 9. Noes, 1 (Liu). Excused, 1 (Bunda).

SCRep. 2695 Ways and Means on H.B. No. 1926

The purpose of this bill is to update the State's franchise and securities laws.

Specifically, this bill updates the Uniform Securities Act to redefine "security" to include limited liability company interest. It also exempts a security from registration and filing requirements if the security is not listed in a rollup transaction and either is listed with a national securities exchange or is designated by the National Association of Securities Dealers, Inc. as a national market system security on an interdealer quotation system. This bill requires that for the exemption to be effective, the exchange or system must be certified by the Commissioner of Securities as meeting certain minimum listing standards pertaining to factors such as shareholders' equity, minimum public distribution, pretax income, aggregate market value, volume of publicly held shares, and total shareholders. The bill also requires national securities exchanges and interdealer quotation systems certified by the Commissioner of Securities to file annual reports at the discretion of the Commissioner.

This bill further updates the Uniform Securities Act by modifying the category of securities that are exempt from the registration and filing requirements because of the fact that they are issued by an investment company registered under the federal Investment Company Act of 1940. This bill exempts them if, simply put, the issuer is a depository institution or an investment adviser, or is sponsored by an exempt entity, and the Commissioner has prior notice of the exempted sale.

This bill also updates the categories of transactions exempt from the registration and filing requirements by deleting the category for nonissuer distributions of a listed issuer and replacing it with a category for sales of securities issued by corporations organized in foreign countries provided the corporations file with the Securities and Exchange Commission

and meet other conditions relating to listings in the Federal Reserve Board List of Foreign Margin Stocks, exemption from reporting requirements under the federal Securities Exchange Act of 1934, years of operation, volume of shares, market value, assets, and net income.

The bill adds a new category of exempt transactions for the sale of securities listed on a national securities exchange or designated as a national market system security on an interdealer quotation system by the National Association of Securities Dealers, Inc., if the exchange or system is certified by the Commissioner, and if not, then the security or the issuer must meet certain registration requirements under either the federal Securities Exchange Act of 1934 or the federal Investment Company Act of 1940. The exemptions will not apply if the securities meet certain conditions involving aggregate price, untrue filing statements, and shareholders and assets.

This bill further modifies the Uniform Securities Act by:

- (1) Allowing the Commissioner of Securities to participate with other states, the federal government, and other entities;
- (2) Permitting service by mail on a person who has failed to give the Commissioner written consent to accept service on the person's behalf;
- (3) Expanding the Commissioner's censure powers against violators to include the authority to suspend and cancel registrations and the authority to bar employment of a violator by a broker-dealer or investment adviser;
- (4) Expanding the grounds for the Commissioner to cancel a registration or application to include lack of presence and incompetency; and
- (5) Specifying that cancellations of registrations do not bar the Commissioner's subsequent enforcement jurisdiction over the registration.

Additionally, this bill updates the franchise investment law to require that offering circulars, or disclosures, pertaining to the sale of a franchise conform to recent requirements and guidelines adopted by the North American Securities Administrators Association and approved by the Federal Trade Commission. It also requires copies of offering circulars to be filed annually with the Department of Commerce and Consumer Affairs, and increases the filing fees of offering circulars, amended offering circulars, and annual renewal fees.

Your Committee finds that long overdue changes are needed to provide for an alignment of the exemptions of the type that California currently uses for publicly traded companies. These exemptions will also ease regulatory burdens upon foreign companies that wish to do business in the State.

Your Committee has amended this bill by deleting all proposed changes that had been made to the category of securities exempt from registration and filing on account of the fact that they were registered under the federal Investment Company Act of 1940. These proposed changes would have implemented a "blue chip" exemption for mutual fund securities offered in the State.

Your Committee has further amended this bill by:

- (1) Eliminating volume and market value conditions for issuers not subject to reporting requirements under the Securities Exchange Act of 1934 to have their sales of securities deemed exempt transactions; and
- (2) Allowing securities previously registered under the federal Securities Act of 1933 to be registered by coordination, which means that registration under the uniform securities law becomes effective at the moment the federal registration becomes effective, provided certain conditions are satisfied relating to lack of outstanding injunctions and prior filing of registration statements, offering prices and underwriting discounts.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1926, 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. 1926, H.D. 2, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 2 (Kanno, Taniguchi).

SCRep. 2696 Ways and Means on H.B. No. 3102

The purpose of this bill is to ensure that only competent persons licensed under the contractors licensing law are permitted to engage in construction.

In particular, this bill:

- (1) Adds three new sections to the contractors licensing law, establishing procedures for prosecution of criminal violators; penalties for acting as a contractor without a license in connection with the offer or performance of repairs to structures damaged by a natural disaster; and enhanced penalties for unlicensed contracting to perform repair for damages when elderly persons are targeted;
- (2) Establishes a presumption that an owner or lessee has violated the exemption provisions of the contractor licensing law if that person obtains an exemption more than once in two years;

- (3) Requires that an applicant for a contractors license exemption as an owner-builder be provided with a printed disclosure statement explaining the law and the penalties, and prohibiting the county from issuing a building permit until the applicant signs the statement;
- (4) Requires county building inspectors or other building officials to report suspected violators to the Regulated Industries Complaints Office; and
- (5) Establishes fines for the violation of the owner-builder licensing exemption ranging from \$5,000 or forty per cent of the appraised value of the building for the first offense, to \$10,000 or fifty per cent of the appraised value for subsequent offenses.

Your Committee finds that the contractors licensing law imposes certain requirements on individuals licensed as contractors, including passing a written exam, meeting certain experiential requirements set by the board, and maintaining workers' compensation and liability insurance, in part to ensure the health and safety of the public by requiring that contractors possess a minimum level of expertise, experience, and training. An exception to the licensing requirement is made for owners or lessees of property who build or improve residential, farm, industrial, or commercial buildings on property for their own use or the use of their immediate family. Under this exemption, the buildings cannot be offered for sale or lease for one year, electrical or plumbing work is excluded, and registration under section 444-9.1, Hawaii Revised Statutes, is required. Violation of this section precludes a claim under the owner-builder exemption for a three-year period.

Your Committee finds that this owner-builder exemption is being misused by unlicensed contractors who seek to circumvent the licensing process. This unlicensed activity puts consumers at risk, since the public has no assurance that a building offered for sale by an unlicensed contractor has been constructed by an individual with the requisite knowledge, training, and experience. Your Committee finds that this bill is necessary to help to curb abuses of the exemption by restricting the claiming of this exemption to once within a two-year period. The presumption of a violation of this provision is subject to rebuttal upon proof that the claimant is a bona fide owner or lessee making improvements within the scope of the exemption.

In addition, your Committee finds that under section 103-45.5, Hawaii Revised Statutes (preferences to bidders on state agency contracts), any bidder who is current on state tax payments over the preceding two-year period and the amount of the bid by the state tax paying bidder is \$5,000,000 or less (four years in the case of bids of more than \$5,000,000) is entitled to a contract award preference if the bid amount does not exceed, by more than five per cent, the bid of any competing bidder who is in arrears. Firms who consistently pay their taxes to the State are often at an unfair disadvantage to those firms that withhold their payments.

Upon further consideration, your Committee has therefore amended this section to increase the number of years a contractor must diligently file state tax returns and pay state taxes to qualify for the bidding preference. In particular, as amended, this section requires that contractors diligently file returns and pay taxes for four, rather than two, successive years to qualify for the bidding preference in projects of \$5,000,000 or less; and for eight, rather than four, successive years for projects of more than \$5,000,000; and raises the amount of the contract award preference from five to fifteen per cent of the bid amount. Your Committee finds that this amendment will make the State's procurement standards more equitable and help to boost the State's economy.

Your Committee has also added a savings clause, renumbered the remaining sections, and made other technical, nonsubstantive amendments for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee 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 the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2697 Ways and Means on H.B. No. 3399

The purpose of this bill is to change certain fees for the filing and processing of various documents under the Hawaii Business Corporation Act (chapter 415, Hawaii Revised Statutes), Hawaii Nonprofit Corporation Act (chapter 415B, Hawaii Revised Statutes), Partnerships law (chapter 425, Hawaii Revised Statutes), and the Uniform Limited Partnership Act (chapter 425D, Hawaii Revised Statutes). Notice and fee requirements applicable to securities issued by investment companies that are exempt from registration under the Uniform Securities Act are also included in this bill.

Your Committee believes that these increases are reasonable and necessary, because the fees have not been raised in over ten years. Your Committee further finds that increasing the fees in the aforementioned chapters would be in keeping with levels established in other states and that the added income will help the Department of Commerce and Consumer Affairs to modernize its recordkeeping and enforcement functions. The moneys spent on computerizing these records will benefit consumers, by speeding up verification, authentication, and other aspects needed to confirm that the organizations regulated by these laws conform to certain business requirements. It is important to maintain public confidence in government and this bill helps the Department to achieve this goal.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3399, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2698 Ways and Means on H.B. No. 3423

The purpose of this bill is to authorize the Director of Commerce and Consumer Affairs to establish a trust fund for administering fees and costs associated with the state certified arbitration program.

The state certified arbitration program handles disputes between consumers and manufacturers over defective new motor vehicles, often called "lemons". For the past seven years, the program has been run by the American Arbitration Association. However, the AAA has declined to submit a bid to run the program, and so the administration of the program has devolved onto the Department of Commerce and Consumer Affairs as of September 1995. The Department has been using a temporary clearing account to handle the funds in this program, but the account is not set up to handle the particular needs of the arbitration program. Your Committee finds that the trust fund authorized by this bill will be an appropriate tool for the department in administering the program.

Your Committee has amended the bill by changing the effective date of the bill to July 1, 1996.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3423, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3423, H.D. 1, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2699 Ways and Means on H.B. No. 3711

The purpose of this bill is to raise the insurers' premium tax on life insurance contracts from 2.75 per cent to 3.197 per cent of the premiums received from in-state risks.

Additionally, this bill changes the basis upon which tax credits are granted to local insurers against their premium taxes. Specifically, this bill changes the basis from a percentage of the insurer's premium tax itself to a percentage of the insurer's resident employee salaries.

Your Committee has amended this bill by raising insurer premium taxes for other types of insurance contracts from 4.265 per cent to 4.75 per cent of premiums received from in-state risks effective July 1, 1996.

Your Committee finds Hurricane Iniki has caused major concerns over the availability of all types of insurance, and the insurance industry is experiencing serious economic hardships in doing business in Hawaii. Providing tax relief to insurers based on the salaries of their employees working in the State is a viable method to keep insurers in Hawaii and their personnel gainfully employed.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3711, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3711, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2700 Ways and Means on H.B. No. 4142

The purpose of this bill is to propose an amendment to the Hawaii State Constitution to authorize the use of revenue bonds to finance the Hawaii Hurricane Relief Fund.

Your Committee finds that Act 339, Session Laws of Hawaii 1993, established the Hawaii Hurricane Relief Fund (HHRF) to address the hurricane insurance crisis that arose in the State in the wake of Hurricane Iniki. An estimated 90,000 homeowners had their policies cancelled as a result of the disaster. Without the HHRF, insurance rates throughout the State would be at a much higher level. The law identified several mechanisms to finance the state-managed hurricane fund, including loan commitments from federal agencies and the issuance of state revenue bonds. This bill proposes an amendment to the Hawaii State Constitution to legitimize the use of these bonds by the State for the purposes of the Hawaii Hurricane Relief Fund.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4142, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 2 (Bunda, Fukunaga).

SCRep. 2701 Ways and Means on H.B. No. 4145

The purpose of this bill is to amend the state law relating to revenue bonds to enable the use of these bonds to support and finance the Hawaii Hurricane Relief Fund.

Your Committee finds that Act 339, Session Laws of Hawaii 1993, established the Hawaii Hurricane Relief Fund to address the hurricane insurance crisis that arose in the State in the wake of Hurricane Iniki. Although revenue bonds were identified as a possible source of funds for the Hawaii Hurricane Relief Fund, Act 339 failed to make the necessary

conforming amendments to the state revenue bond law. This bill amends the state revenue bond law to legitimize the use of these bonds for the purposes of the Hawaii Hurricane Relief Fund.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4145, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 2 (Bunda, Fukunaga).

SCRep. 2702 Ways and Means on H.B. No. 3154

The purpose of this bill is to provide continued support for legislative public access programs.

Specifically, this bill transfers the administration and function of the public access room to the Legislative Reference Bureau and appropriates funds for year-round financing of the room; appropriates funds for broadcasts of legislative proceedings and the legislative internet project; and establishes a joint legislative access committee to oversee the staff and operations of the legislative broadcast project, and review the operations of the public access room, internet project, and other legislative public access projects. This bill also requests the Public Utilities Commission to cablecast selected commission proceedings of interest to the public on cable television public access channels with timely notice provided to the public, and to report to the Legislature prior to the 1997 regular session regarding its progress in this area.

Your Committee has amended this bill by adding a new part VII to this bill to create a Hawaii legislative publications special fund to operate and improve the computer and public access systems of the legislature. Accordingly, your Committee has also re-numbered subsequent sections of the bill.

Your Committee finds that this bill is necessary to continue to assure meaningful citizen participation in the legislative process in Hawaii. The public access room is vital to educating Hawaii's residents about that process and assisting them in the use of computer technology. For many people, that room is the only source of information and assistance regarding important legislative measures and hearings. Transferring the administration and function of that room to the Legislative Reference Bureau will continue to ensure the effective delivery of these services to the public. In addition, by providing funding for the legislative internet project and other areas, this bill further enhances access to the legislative process. The Hawaii legislative publications special fund is also necessary to support the operation of the public access systems of the legislature.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3154, 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. 3154, H.D. 2, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2703 Ways and Means on H.B. No. 3421

The purpose of this bill is to provide that new cable television franchises or franchise transfers require a level of public, education, and government (PEG) channel programming equivalent to levels provided or to be provided by the existing providers.

The bill also permits the Department of Commerce and Consumer Affairs to hire technical staff, including attorneys, without regard to the civil service laws, to enforce the cable television statutes. Your Committee finds that the Department's Cable Television Division is responsible for regulating areas of cable television that are rapidly changing and diverse in nature, and that additional technical staff is necessary for the Division to carry out its duties effectively.

Your Committee has amended the bill by deleting the requirement that new franchises and franchise transfers provide the equivalent level of PEG programming as provided by existing providers in the county. Your Committee has also made a conforming amendment to section 28-8.3, Hawaii Revised Statutes, which provides exemptions from the general prohibition against state agencies, other than the Attorney General, hiring attorneys.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3421, 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. 3421, H.D. 2, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 4 (Bunda, Kanno, Tanaka, Liu).

SCRep. 2704 Ways and Means on H.B. No. 3964

The purpose of this bill is to streamline the operations of state government by the use of electronic media, in order to provide the timely and effective delivery of services to the public.

In particular, part I of this bill allows public accountants receiving revenues on account of the State who are authorized to accept remittances by check or similar instrument to accept remittances by electronic funds transfers. Part I further provides for the assessment and collection of service charges for dishonored electronic funds transfers; allows for money to be drawn out of the state treasury via electronic funds transfers in lieu of warrants; allows tax returns to be filed electronically; and establishes penalties under certain circumstances with respect to the remittance of taxes to the Department of Taxation via electronic funds transfer.

Part II of this bill establishes the Hawaii legislative publications special fund to be used by the Legislature to operate and improve its computer and public access systems.

Part III of the bill amends the public procurement code relating to competitive sealed bidding to allow notice of all invitations for bids and bid information to be provided through the State's information network, electronic bulletin boards, or other media.

Finally, part IV of the bill requires the Department of Taxation to report to the Legislature information relating to persons who were assessed penalties imposed for the late payment of taxes by electronic funds transfer.

While your Committee agrees with the intent of this bill to streamline government functions to provide for the cost-effective delivery of services to Hawaii's residents, your Committee does not entirely agree with all of the methods set forth in this bill for attaining that result.

Upon careful consideration, your Committee has deleted parts I, II, and IV of the bill, while retaining part III, which is renumbered as part I. In addition, your Committee has added a new part II that renames the Office of State Planning as the Office of Planning, and transfers that office to the Department of Commerce and Consumer Affairs for administrative purposes. Your Committee has also added conforming amendments to the Hawaii Revised Statutes and provided for the transfer of personnel and equipment.

Furthermore, your Committee has added a new part III that repeals the requirement that the housing finance and development corporation (HFDC) use funds from the rental assistance revolving fund to provide interim construction financing for the development of affordable rental housing and prohibits the HFDC from entering into new rental assistance contracts or subsidies to tenants' rent. Provisions relating to rental assistance contracts and rules governing the rental assistance program are also repealed. The HFDC's power to approve and certify for exemption from general excise taxes is also removed regarding newly constructed or rehabilitated projects developed under chapter 201E, Hawaii Revised Statutes, and for new homes for qualified families in need of decent, low-cost housing developed under sponsorship of private nonprofit corporations.

Finally, your Committee has changed the effective date from July 1, 1996 to upon approval, and renumbered the bill sections.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3964, 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. 3964, H.D. 1, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2705 Ways and Means on H.B. No. 3203

The purpose of this bill is to appropriate \$1,000,000 from the general obligation bond fund to fund projects of the Center for a Sustainable Future.

The Center for a Sustainable Future, a private, non-profit corporation affiliated with the School of Ocean and Earth Science and Technology would be located on Coconut Island (Moku O Lo'e). The purpose of the facility is to bring together a diverse group of people to conduct applied research relating to sustainable development. Funds appropriated in this bill would also include the design and construction of the Spark M. Matsunaga Renewable Energy and Ocean Technology Center.

Your Committee finds that the Center for a Sustainable Future offers unique opportunities to the economic and environmental future of Hawaii. Your Committee has amended this measure by deleting the specific amount appropriated to encourage further discussion on these issues.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3203, 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. 3203, H.D. 1, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 2 (Bunda, Fernandes Salling).

SCRep. 2706 Ways and Means on H.B. No. 3208

The purpose of this bill is to establish a blue ribbon task force on small business.

The functions of the task force are to review all existing state administrative rules relating to small businesses; all state-originated proposed rules and proposed amendments to existing rules that affect small businesses prior to their adoption; and all state laws that act as barriers to the formation, operation, and expansion of small businesses in the State. The task force is required to submit reports to the Governor and Legislature before the 1997 and 1998 Regular Sessions, and is to be dissolved on June 30, 1998.

Your Committee agrees that many existing statutes and administrative rules serve as barriers to the operation, formation, and expansion of small businesses in Hawaii. These laws, in addition to their increasing numbers and complexity, often impose intolerable burdens on small businesses. Your Committee finds that this bill is an important step

in assisting small businesses to become more productive and can encourage the formation of new small businesses in the State.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3208, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 2 (Bunda, Fernandes Salling).

SCRep. 2707 Ways and Means on H.B. No. 3852

The purpose of this bill is to facilitate the issuance of special purpose revenues bonds to assist ETV Hawaii/Elephant Television, Inc., as an industrial enterprise.

The goal of ETV Hawaii/Elephant Television, Inc. is to provide television and film industry production and training to Hawai'i residents. The Legislature first authorized the issuance of bonds in support of ETV Hawaii/Elephant Television, Inc. in 1991 by Act 278, Session Laws of Hawaii 1991, under part IV of chapter 39A, Hawaii Revised Statutes, as a processing enterprise. That Act was amended two years later by Act 240, Session Laws of Hawaii 1993, to reclassify the issuance under part V of chapter 39A, Hawaii Revised Statutes, as an industrial enterprise. It has become apparent that under current federal law, these bonds cannot be issued in a way to make interest on them exempt from federal taxation. Act 278 is therefore being amended to expressly permit the bonds to be issued as taxable bonds.

Your Committee has amended the bill by reducing the amount of the bonds from \$10,000,000 to \$8,000,000 and by changing the effective date to July 1, 1997 to promote continued discussion on this issue.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3852, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3852, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2708 Ways and Means on H.B. No. 4117

The purpose of this bill is to temporarily amend the state enterprise zones law (chapter 209E, Hawaii Revised Statutes), directing particular benefits to businesses in counties having a population of less than 100,000.

Specifically, this bill:

- (1) Expands the definition of "qualified business" to include a corporation, partnership, or sole proprietorship that was in possession of a general excise tax license before July 1, 1996, and is:
 - (A) Engaged in roadside sales of agricultural products from a temporary shelter; or
 - (B) Engaged in contracting, erecting, constructing, repairing, or improving buildings or structures in counties with populations of less than 100,000 people;
- (2) Limits the definition of "service business or calling" to the repair of ships or aircraft, and the provision of telecommunication services, information technology design and production services, medical and health care services, or education and training services;
- (3) Requires qualified business firms and qualified businesses to already employ at least one full-time employee;
- (4) Repeals the requirement that qualified business firms and qualified businesses hire and maintain minimum percentages of low-income employees;
- (5) Requires qualified business firms and qualified businesses to increase the number of full-time employees in their employ by ten per cent;
- (6) Exempts producers of agricultural products in counties with populations of less than 100,000 people from certain requirements applicable to qualified business firms and qualified businesses;
- (7) Limits a contractor in a county with a population of less than 100,000 people, who has been designated a "qualified business", only to the state business tax credit under section 209E-10, Hawaii Revised Statutes, against income taxes due;
- (8) Repealing the requirement that a qualified business firm submit an annual request to the Department of Business, Economic Development, and Tourism for the tax benefits provided in chapter 209E, Hawaii Revised Statutes;
- (9) Repealing the requirement that the foregoing statement be completed by an independent accountant; and
- (10) Requiring the foregoing statement to be forwarded to the governing body of the county prior to being forwarded to the Department of Business, Economic Development, and Tourism;

- (11) Repealing the requirement that tangible personal property and services be sold and delivered by a qualified business within an enterprise zone; and
- (12) Repeals the foregoing amendments to sections 209E-2 and 209E-9, Hawaii Revised Statutes, on June 30, 1997.

Your Committee has amended this bill by deleting its contents and substituting contents of S.B. No. 3240, S.D. 2. This substitution of contents effectively amends this bill by:

- (1) Deleting the provisions defining the terms "education and training services", "full-time employee", "information technology design and production services", "medical and health care services", and "telecommunication services";
- (2) Retaining the definition of "low-income employee";
- (3) Repealing the definition of "wholesale";
- (4) Defining the "wholesale sale of tangible personal property" by a "qualified business" in terms of the definition of "wholesaler" in section 237-4, Hawaii Revised Statutes (the general excise tax law);
- (5) Deleting the provision amending the definition of "service business or calling";
- (6) Deleting the provisions:
 - (A) Requiring a qualified business firm to already employ at least one full-time employee;
 - (B) Repealing the requirement that low-income employees comprise forty per cent or more of the full-time employees employed by a qualified business firm;
 - (C) Requiring a qualified business firm to increase the number of full-time employees by at least ten per cent by the end of its first tax year of participation;
 - (D) Requiring a qualified business firm to at least maintain the foregoing increase in the number of full-time employees during each subsequent taxable year;
 - (E) Repealing the requirement that a qualified business firm submit an annual request for the tax benefits provided by chapter 209E, Hawaii Revised Statutes;
 - (F) Repealing the requirement that the foregoing statement be completed by an independent accountant; and
 - (G) Requiring the foregoing statement to be forwarded to the governing body of the county prior to being forwarded to the Department of Business, Economic Development, and Tourism;
- (7) Deleting the provisions:
 - (A) Requiring a qualified business (as opposed to a qualified business firm) to already employ at least one full-time employee;
 - (B) Increasing the percentage by which a qualified business must increase the average number of full-time employees employed by it over the preceding year from five per cent to ten per cent;
 - (C) Repealing the requirement that low-income employees comprise not less than forty per cent of the foregoing increase in the number of full-time employees;
 - (D) Repealing the requirement that a qualified business maintain the foregoing increase in the number of full-time employees during each subsequent taxable year;
 - (E) Repealing the requirement that a qualified business increase its average number of full-time, low-income employees by at least five per cent during each taxable year; and
 - (F) Repealing the requirement that tangible personal property and services be sold and delivered by a qualified business within an enterprise zone;
- (8) Adding a provision reenacting the definition of "wholesale" in section 209E-2, Hawaii Revised Statutes, in the form in which it read on June 30, 1996; and
- (9) Making technical nonsubstantive changes for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4117, 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. 4117, H.D. 2, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

The purpose of this bill is to transfer the school-to-work transition program and all of its officers and employees, including the social workers and public health nurses, from the Department of Labor and Industrial Relations to the Department of Education.

In addition, this bill:

- (1) Prevents tenured officers or employees with the school-to-work transition program from suffering any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of this bill; and
- (2) Transfers all appropriations, records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personal property relating to the school-to-work transition program to the Department of Education.

Your Committee has amended this bill by deleting the purpose section of the new statutory material and the transition provisions:

- (1) Allowing the Department of Education to establish positions and hire necessary personnel for the school-to-work transition program without regard to the civil service and compensation laws;
- (2) Transferring the officers and employees of the school-to-work transition program, including the social workers and public health nurses, to the Department of Education along with their functions;
- (3) Allowing tenured and nontenured officers or employees of the school-to-work transition program, who are displaced as a consequence of this bill, to be transferred or appointed to civil service positions without the necessity of examination; and
- (4) Preventing tenured officers or employees of the school-to-work transition program, whose offices or positions are abolished as a consequence of this bill, from being separated from state employment.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2514, 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. 2514, H.D. 3, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2710 Ways and Means on H.B. No. 3138

The purpose of this bill is to improve and enhance public school education in Hawaii.

Specifically, this bill:

- (1) Exempts public schools from the Hawaii public procurement code (chapter 103D, Hawaii Revised Statutes) for procurements of less than \$5,000;
- (2) Establishes a zero-tolerance policy for drugs or alcohol in school;
- (3) Expands penalties for possession of firearms in school to other dangerous instruments used or known to be capable of causing death or serious bodily injury;
- (4) Clarifies that profits derived from student-run enterprises shall be treated similarly to profits derived from student's agricultural and industrial pursuits; and
- (5) Establishes a training program for school security attendants.

Public education is one of the most important public services provided by state government in Hawaii. Providing the appropriate environment and equipment is essential to achieving the best results. Your Committee finds that this bill takes actions that will improve and enhance the overall public education system.

Your Committee amended this bill by:

- (1) Deleting the school security attendants training program and the appropriation for that program;
- (2) Adding Part II, which is the contents of S.B. 3202, S.D. 2, regarding limited tax deductions for educational technology infrastructure;
- (3) Adding Part III, that allots \$90,000,000 of general obligation bond funds to the state educational facilities improvement special fund, instead of a portion of general excise tax revenues; and authorizes the transfer of funds between the school-based budgeting program and the school-level personnel program within the department of education;
- (4) Adding Part IV, which is the contents of S.B. 2222, S.D. 2, that authorizes adult community education programs to accept high school students as an alternative to traditional high school; and

- (5) Adding Part V, requiring the Department of Accounting and General Services to assist the Department of Education in building classrooms for specified schools according to specific parameters; and
- (6) Making other technical, nonsubstantive amendments.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3138, 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. 3138, H.D. 1, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2711 Ways and Means on H.B. No. 3345

The purpose of this bill is to abolish the Hawaii Education Council.

In addition, this bill:

- (1) Repeals the law requiring the selection and terms of the members of the Education Commission of the States to be governed by section 26-34, Hawaii Revised Statutes;
- (2) Repeals the law entitling the members of the commission to reimbursement for necessary expenses while attending meetings and while in the discharge of duties and responsibilities; and
- (3) Repeals the law requiring:
 - (A) A report of the activities and expenses of the commission; and
 - (B) A proposed program for the State's continuing participation in the Compact for Education; to be submitted to each regular session of the Legislature.

Your Committee finds that the Hawaii Education Council has not met in the last two years and is no longer deemed a necessary vehicle for soliciting input on educational matters. Your Committee also finds that the council is not necessary for the State of Hawaii to maintain its membership in the Education Commission of the States.

While your Committee agrees that the Hawaii Education Council should be repealed, your Committee also believes that the provisions relating to the still existing Education Commission of the States should be retained.

Your Committee has therefore amended this bill by adding provisions:

- (1) Requiring the selection and terms of the members of the Education Commission of the States to be governed by section 26-34, Hawaii Revised Statutes;
- (2) Entitling the members of the commission to reimbursement for necessary expenses while attending meetings and while in the discharge of duties and responsibilities;
- (3) Requiring the Governor to submit:
 - (A) A report of the activities and expenses of the commission; and
 - (B) A proposed program for the State's continuing participation in the Compact for Education; to the Legislature; and
- (4) Making technical, nonsubstantive changes for purposes of style.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3345, 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. 3345, H.D. 2, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2712 Ways and Means on H.B. No. 3432

The purpose of this bill is to provide for certification by the Department of Education of educational officers, and of teachers who are excluded from collective bargaining after the end of the 1996-1997 school year.

In addition, this bill:

- (1) Authorizes the Department of Education to revoke certificates and to exchange pertinent information with other national or state teacher certification agencies about school personnel who have had certificates revoked, retroactive to July 1, 1995; and

- (2) Provides for the imposition of a \$500 fine against any person who serves in the Department of Education as a teacher, not paid under the salary schedule contained in the unit 5 collective bargaining agreement, without holding an unrevoked certificate, beginning with the 1997-1998 school year.

Your Committee finds that Act 240, Session Laws of Hawaii 1995, inadvertently repealed the authorization of the Department of Education to certify teachers who are excluded from collective bargaining after the end of the 1996-1997 school year.

Your Committee has amended this bill by:

- (1) Deleting the provisions requiring educational officers to be certified by the Department of Education;
- (2) Deleting the purpose section to avoid any conflicts with its substantive provisions; and
- (3) Making technical, nonsubstantive changes for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3432, 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. 3432, H.D. 1, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2713 Ways and Means on H.B. No. 3434

The purpose of this bill is to require all expenditures for the operation of intersession programs of year-round public schools to be made from a special fund consisting of tuition, fees, and other sources of money for the intersession programs.

Specifically, this bill:

- (1) Changes the name of the "special summer school fund" to the "special summer school and intersession fund", and increases the scope of the special fund to include tuition, fees, and other sources of money for intersession program expenditures; and
- (2) Requires section -1410, Hawaii Revised Statutes, as contained in section 2 of S.B. No. 2446 or H.B. No. 3252 (Relating to the Recodification of the Education Statutes), as the case may be, to be amended to reflect the amendment of section 298-3.5, Hawaii Revised Statutes, in this bill, if S.B. No. 2446 or H.B. No. 3252 is passed by the Legislature in any form during this Regular Session of 1996, to reflect the renumbering, restructuring, and reorganization of chapters 296, 296C, 296D, 297, 297D, 298, 299, 300, and 301, Hawaii Revised Statutes.

Your Committee finds that more schools are adopting single-track, year-round calendars and offering "intersession programs" as part of this scheduling initiative. An intersession is the period of time between regular instructional sessions used for vacations or voluntary supplementary programs for students or staff, or both. The Department of Education has made it clear that it cannot fund these intersession programs and has allowed schools to charge fees using the special summer school fund. The Department considers intersession days as the equivalent of summer vacation days that are distributed more evenly throughout a year-round education school calendar. Like summer school programs, intersession course offerings are not a part of the regular school program but are offered as voluntary, supplementary programs for families who wish to participate. This bill will make clear the distinction between "summer school" and year-round education "intersession" programs and allow the Department to establish rules and procedures for the accounting of intersession fees.

Your Committee has amended this bill by making technical nonsubstantive changes for purposes of clarity.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3434, 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. 3434, H.D. 2, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2714 Ways and Means on H.B. No. 3439

The purpose of this bill is to make an unspecified, emergency appropriation to the Department of Education for fiscal year 1995-1996 for school electricity payments.

This bill is recommended by the Governor for immediate passage in accordance with article VII, section 9, of the State Constitution.

Your Committee finds that the Department of Education is unable to meet its financial obligations for electrical service in fiscal year 1995-1996 without reducing or discontinuing educational services to students. To give the Department more time to accurately calculate its electricity requirements from January 1, 1996 to June 30, 1996, and to give the Legislature more time to determine whether the Department is able to meet its financial obligations for electrical service in fiscal year 1995-1996 without reducing or discontinuing educational services to students, your Committee has left the amount to be appropriated blank.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3439, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2715 Ways and Means on H.B. No. 1559

The purpose of this bill is to create a new hospitals system consisting of a commissioner of community hospitals, five regional boards, and thirteen public health care facilities.

After careful consideration, your Committee has amended this bill by deleting the substantive provisions of the bill that create the new hospitals system while retaining, as part I of the bill, sections 25 through 28 of the bill (now re-numbered as sections 1 through 4 of the amended bill) that extend various acts relating to autonomy for the community hospitals for two years until June 30, 1998. These acts are:

- (1) Act 211, Session Laws of Hawaii 1993, which added the Kauai Veterans Memorial Hospital, Leahi Hospital, Maluhia, Kula Hospital, and the Samuel Mahelona Memorial Hospital to the original community hospitals autonomy pilot project that began with Maui Memorial Hospital, Hilo Medical Center, and Kona Community Hospital;
- (2) Act 188, Session Laws of Hawaii 1994, as amended by Act 178, Session Laws of Hawaii 1995, which added Ka'u Hospital, Honokaa Hospital, Kohala Hospital, Lanai Community Hospital, Hana Medical Center, and the Division of Community Hospitals of the Department of Health to the community hospitals autonomy project;
- (3) Act 192, Session Laws of Hawaii 1994, as amended by Act 211, Session Laws of Hawaii 1995, which granted to the community hospitals in the autonomy pilot project certain exemptions from statutes relating to finance that have been identified as impediments to the hospitals' autonomous operation; and
- (4) Act 193, Session Laws of Hawaii 1994, which resolved conflicts regarding the exemption of the community hospitals in the pilot autonomy project from certain competitive bidding requirements.

In addition, your Committee has also inserted, as part II of the bill, the contents of S.B. No. 3198, S.D. 1. Part II of the bill provides for the development of a community-based health care program which will result in the transfer of the Hana Medical Center to a Hana nonprofit health care organization within the next two years.

Specifically, the Department of Health is required to enter into a memorandum of agreement with a Hana nonprofit health care organization. The agreement is to include:

- (1) Assistance by the Department of Health in developing a Hana-based nonprofit organization, and a detailed plan for the transition of the Hana Medical Center to a nonprofit organization; and
- (2) Release by the Department of Health of the Hana Medical Center from the Division of Community Hospitals, effective July 1, 1997, upon the successful completion of terms of the agreement and resolution of the following issues:
 - (A) The status of the current state employees working at the Hana Medical Center after the transition to the nonprofit organization;
 - (B) The continuing obligation of the State for ambulance and emergency services;
 - (C) The ability of the nonprofit organization to assume financial responsibility for the Hana Medical Center; and
 - (D) The successful negotiation of lease arrangements and capital improvements for the medical center, adjacent buildings, and the ten-acre area, or so much as agreed upon, of the medical center campus.

The amended bill also requires the Department of Health to report to the legislature twenty days before the convening of the 1997 regular session if the Department of Health and a Hana-based nonprofit health care organization are unable to resolve the above issues by December 15, 1996. The report is to include an explanation of the barriers to completion of the agreement and a plan, developed in conjunction with the Hana community, to expedite the transition of the Hana Medical Center to a Hana community-based care organization.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1559, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1559, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 2 (Bunda, Tanaka).

SCRep. 2716 Ways and Means on H.B. No. 2549

The purpose of this bill is to ensure that the State Planning Council on Developmental Disabilities operates independently.

Specifically, this bill:

- (1) Prohibits the Department of Health from interfering with the Council's activities, in particular, with the Council's advocacy for persons with developmental disabilities;
- (2) Limits the Department's responsibilities to accounting for and disbursing funds as directed by the Council in compliance with the state plan and state and federal laws, and repeals this and the foregoing provision on June 30, 1977;
- (3) Replaces all references to "the developmentally disabled" with "individuals with developmental disabilities" in various sections of chapter 333E, Hawaii Revised Statutes;
- (4) Replaces "citizens" with "residents" to ensure that resident aliens would not be excluded for services;
- (5) Adds systems advocacy to the activities required by federal law of the Council;
- (6) Requires the Council to monitor, evaluate, and comment on the implementation plans to deinstitutionalize Waimano training school and hospital;
- (7) Delete the Council's serving as a channel for complaints by developmentally disabled consumers, following up complaints, and taking action, as a Council responsibility; and
- (8) Adds the annual submission of analyses of budget requests to the legislature and the governor, as a Council responsibility.

Your Committee finds that this bill appropriately clarifies the role of the State Planning Council on Developmental Disabilities.

Your Committee has made a technical, nonsubstantive amendment to this bill by changing the word "dispersing" on page 2, line 12, to "disbursing".

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2549, H.D. 2, S.D. 1, as amended, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2549, H.D. 2, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2717 Ways and Means on H.B. No. 3493

The purpose of this bill is to create the newborn metabolic screening special fund to cover testing, personnel, education, and other expenses, and to convene a panel to develop a plan for providing newborn metabolic screening services.

Your Committee finds that the State mandates testing of only two metabolic conditions in infancy, and that all other states screen for three to nine metabolic conditions. Your Committee also finds that early identification of these conditions is not only cost-effective; if discovered early enough, many metabolic conditions can be treated or monitored so as to drastically improve the infant's condition and quality of life.

Your Committee has amended this bill by:

- (1) Adding laboratory testing to, and deleting personnel from, the expenditures that can be paid for out of the fund;
- (2) Changing the fee to be charged for the newborn screening kit from \$4 per kit to an unspecified amount;
- (3) Providing that the Department of Health not be responsible for the costs of laboratory and follow-up testing between July 1, 1996 and June 30, 1997;
- (4) Requiring the plan to be submitted to the Department of Health instead of to the Legislature, and by December 31, 1996 instead of twenty days prior to the 1997 Regular Session;
- (5) Requiring the panel to address the issue of newborn screening fees; and
- (6) Prohibiting the Department from adopting rules to increase the number of newborn screening tests until the plan is completed.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee 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 the Chairman on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 4 (Bunda, Kanno, Tanaka, Liu).

SCRep. 2718 Ways and Means on H.B. No. 3505

The purpose of this bill is to attach the Reproductive Rights Protection Committee to the Department of Health for administrative purposes, rather than to the State Planning Council on Developmental Disabilities.

The bill also removes the Committee's powers to hire staff and is contingent upon the execution of a memorandum of understanding between the Department and the Reproductive Rights Protection Committee which preserves confidentiality and stipulates non-interference by the Department in the affairs of the Committee.

Your Committee finds that this bill is supported by the Department of Health, the State Planning Council on Developmental Disabilities, and the Commission on Persons with Disabilities.

Your Committee finds that because of fiscal constraints, the Council can no longer provide staff support for the Committee nor can it use federal funds to staff a state program. However, the Commission has agreed to provide this staff support. Your Committee finds that it is vital for the Reproductive Rights Protection Committee to continue to be staffed. This bill accomplishes that goal.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3505, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2719 Ways and Means on H.B. No. 1716

The purpose of this bill is to establish a theatre revolving fund at the University of Hawaii at Hilo.

Your Committee has amended this bill by deleting its contents and replacing it with provisions involving University of Hawaii special and revolving fund expenses, budget formulations, land exchanges, establishment of special and revolving funds, and class scheduling.

Specifically, Part I of this bill:

- (1) Requires each special and revolving fund of the University of Hawaii, except the tuition and fees special fund, to be responsible for its pro rata share of administrative expenses, and requires the transfer of reimbursement amounts from these special and revolving funds to the general fund beginning with fiscal year 1997-1998;
- (2) Authorizes the Director of Finance, beginning with fiscal year 1997-1998, to deduct five per cent of all receipts of university special and revolving funds and transfer them to the general fund in order to defray the prorated estimate of central service expenses of government;
- (3) Modifies for fiscal year 1997-1998 the factors that the Legislature must use in formulating the university general fund budget appropriations;
- (4) Reestablishes the Hawaii opportunity program in education (HOPE) fund in the University of Hawaii rather than in the treasury and as a revolving fund rather than as a special fund;
- (5) Requires the President of the University of Hawaii in fiscal year 1996-1997 to assess charges against each special and revolving fund and transfer the amounts to the tuition and fees special fund; and
- (6) Prohibits the University's Oahu campuses from starting regular instruction classes earlier than 9:30 a.m., and requires these campuses to schedule classes throughout the day so as to reduce peak parking demand periods.

Additionally, Part II of this bill authorizes a land exchange between the State and the Campbell Estate in order for the State to acquire a larger tract of land in Kapolei upon which to develop a University of Hawaii West Oahu campus. Specifically, this bill authorizes the State to return the Hawaii Raceway Park site to Campbell Estate in exchange for a larger land area of the Estate's. The raceway park site had been previously owned by the Estate until its acquisition by the State through condemnation. This bill repeals the authorization on June 30, 1997.

Part II of this bill also establishes a University of Hawaii-West Oahu special fund whose proceeds will be used by the University of Hawaii to help build the campus. This bill provides that the fund will be supported by legislative appropriations, sales and rental income derived from specified public lands, and interest on the fund balance. This measure also exempts expenditures of such proceeds attributable to sales and leases of public lands from the requirement of prior legislative authority.

Finally, your Committee has made the provisions of this bill non-severable.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1716, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1716, H.D. 1, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 2 (Bunda, Tanaka).

SCRep. 2720 Ways and Means on H.B. No. 2809

The purpose of this bill is to require the Department of Education to establish user fees for special and unique facilities such as the Pearl City cultural center, with net proceeds to go to the school responsible for the facility.

Your Committee finds that it is appropriate for schools that maintain special facilities to receive the net proceeds in recompense for their work. The payment will serve as an incentive for the school to maintain the facility and grounds and to seek appropriate users for the facility.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2809, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2721 Ways and Means on H.B. No. 3583

The purpose of this bill is to further clarify laws enacted to provide the University of Hawaii with a greater level of fiscal autonomy.

Specifically, this bill:

- (1) Eliminates statutorily prescribed categories of students who are deemed exempt from nonresident tuition and fee differentials at the University of Hawaii, and to give the university Board of Regents authority over tuition reductions for those students;
- (2) Requires that the base figure used to calculate the University of Hawaii's general fund budget appropriation for fiscal year 1997-1998 be a specified percentage of the appropriations from fiscal year 1994-1995;
- (3) Increases from fifty to one hundred per cent the amount of indirect overhead revenues that the University of Hawaii must deposit into the University of Hawaii research and training revolving fund;
- (4) Limits the Board of Regents's expenditures out of the revolving fund to eighty-four per cent of the deposited revenues;
- (5) Removes the \$2,500,000 ceiling on moneys held in the revolving fund;
- (6) Requires that no revenues in the fund may be used to reduce university budget requests or allotments unless requested by the University;
- (7) Authorizes the Board of Regents to expend money from the tuition and fees special fund to solicit private donations to the University of Hawaii foundation; and
- (8) Repeals section 304-17, Hawaii Revised Statutes, on university financial aid.

Your Committee finds that these changes are needed to further clarify the intent of Act 161, Session Laws of Hawaii 1995, and to ensure the financial integrity of both the research and training revolving fund and the tuition and fees special fund.

Your Committee has amended this bill by:

- (1) Deleting the instructions for calculating the fiscal year 1997-1998 budget appropriations;
- (2) Changing the amount of indirect overhead revenues to be deposited into the research and training revolving fund from one hundred per cent to an unspecified percentage; and
- (3) Changing the ceiling on the amount of revenues in the revolving fund that may be expended for research and training from eighty-four per cent to an unspecified percentage.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3583, 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. 3583, H.D. 2, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2722 (Majority) Ways and Means on H.B. No. 3833

The purpose of this bill is to amend the public agency meetings and records law to transfer the authority to make changes in University of Hawaii service fees from the Governor to the Board of Regents.

In addition, this bill:

- (1) Authorizes the Board of Regents of the University of Hawaii to establish resident tuition fees and differential fees for nonresident students at public meetings under the public agency meetings and records law (chapter 92, Hawaii Revised Statutes), without complying with the rulemaking requirements of the Administrative Procedure Act (chapter 91, Hawaii Revised Statutes) after first holding a public information hearing during or before the semester to which the new tuition applies;

- (2) Amends the public agency meetings and records law to allow the Board of Regents to increase or decrease other fees or nontax revenues established by the university, including those for community colleges, university projects, and university parking, without complying with the rulemaking requirements of the Administrative Procedure Act, and requiring that a public information meeting on regular credit tuition fee changes be held during or before the semester to which the new tuition applies; and
- (3) Exempts other fees and nontax revenues assessed or charged by any board, commission, or other governmental agency under section 92-28, Hawaii Revised Statutes (state service fees), from the rulemaking requirements of the Administrative Procedure Act.

Although your Committee agrees with the intent of this bill, your Committee finds that rather than providing for a blanket exemption from all of the rulemaking requirements of the Administrative Procedure Act, the better approach is to provide exemptions only from certain aspects of that Act, rather than from the entire Act. Providing an exemption only from certain aspects will preserve other requirements, such as filing with the Lieutenant Governor, that are necessary for the public to retain access to information and the Legislature to maintain sufficient legislative oversight over the rulemaking process. More importantly, a complete exemption from the Administrative Procedure Act's requirements would enable agencies to change their rules literally at whim, which is an inappropriate delegation of authority in such an important area. Your Committee has therefore amended this bill to:

- (1) Exempt the Board of Regents from the public notice, public hearing, and gubernatorial approval requirements of chapter 91, Hawaii Revised Statutes; and
- (2) Allow the fees to be set at an open public meeting subject to the requirements of the "sunshine law" as long as the meeting is held no later than the semester prior to the semester to which the fees apply, and the schedule of fees is filed at the Office of the Lieutenant Governor.

In addition, your Committee has further amended this bill by deleting chapter 514A, Hawaii Revised Statutes (condominium property regimes), from the authority to increase or decrease fees or nontax revenues under section 92-28, Hawaii Revised Statutes, and by restoring the words "statutorily assessed" in section 92-28, Hawaii Revised Statutes, that had been deleted from that section.

Your Committee has also made technical, nonsubstantive amendments.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3833, 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. 3833, H.D. 1, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 9. Noes, 1 (Liu). Excused, 1 (Bunda).

SCRep. 2723 Ways and Means on H.B. No. 3954

The purpose of this bill is to require the Center for Labor Education and Research at the University of Hawaii at Manoa to offer both credit and non-credit labor studies courses and develop the means to offer these courses through distance education techniques.

Additionally, this bill permits the Director of the Center to restrict the Center's publication and stationery contracts to contractors with unionized employees.

At present only non-credit courses are offered by the Center. The offering of credit courses as well will encourage study in labor education by students and community members alike. Also, offering courses through distance education will encourage study by students and residents of the neighbor islands and the outlying areas of Oahu. Finally, your Committee finds that the Center's contracting certain work to only employers whose employees are represented by a union reaffirms the University of Hawaii's twenty-year-old commitment to the role of organized labor in this State.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3954, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2724 Ways and Means on H.B. No. 4063

The purpose of this bill is to establish a Hawaiian language task force to recommend and develop a plan for the creation of a Hawaiian language college.

The task force is required to submit its report to the Office of Hawaiian Affairs and the Legislature before the convening of the 1997 Regular Session.

Your Committee finds that this year, 1996, declared the "Year of the Hawaiian Language", deserves significant recognition by the Legislature and the state government. Hawaiian immersion schools have been in existence for many years; the campus of the University of Hawaii at Hilo has seen a growth in the number of students who speak primarily in the Hawaiian language; and there is widespread acceptance of the Hawaiian culture above and beyond the ethnic foods and dances. It is now time to develop a long-range plan to integrate the Hawaiian language into the State's educational system.

Your Committee finds that this task force will develop plans and recommendations not only for curriculum development, teacher training, and a graduate program in Hawaiian language and literature, but also will make recommendations for more effective utilization of federal and other sources of funds to make a Hawaiian language college a reality. The vitality of the entire Hawaiian population will benefit from what could become a unique college program in the world for the study of the Hawaiian language.

Your Committee finds that the study of a language can teach not only a group's history, but its strengths, its religious beliefs, its values, and in turn, increase the group's self-esteem in ways that were lost when the Hawaiian language was influenced by foreigners to Hawaii. Your Committee foresees many external benefits resulting from the creation of a Hawaiian language college, not the least important of which is the revitalization of the Hawaiian culture.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4063, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2725 Ways and Means on H.B. No. 4131

The purpose of this bill is to reform the welfare system within the context of the current depressed fiscal conditions and anticipated federal program restrictions while preserving individual dignity and improving the human condition.

Your Committee has wrestled with the concerns in this bill while realizing the difficulties it could place on all public assistance recipients who need financial support. Incentives to get people off welfare and into job training, work alternatives, skill building, and other services, require funds which are very tight for this, and perhaps future years. The reduced state revenues combined with Hawaii's continued high cost of living, and a depressed economy can only bode ill for those who for one reason or another need public assistance to survive.

Your Committee is aware that some welfare recipients have already experienced a halving of benefits and that the high correlation between low income and increased health problems, lower educational attainment, and more homelessness will guarantee that the financially needy will continue to have more than their fair share of difficulties. It is hoped that this bill will help to alleviate some of these problems.

Your Committee has amended this bill by making technical, nonsubstantive changes.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4131, 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. 4131, H.D. 3, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2726 Ways and Means on H.B. No. 114

The purpose of this bill is to require the campaign spending commission to employ a full-time executive director and to open its investigative hearings to the public.

Your Committee has amended this bill by replacing it in its entirety with sections 5 and 6 of S.B. No. 2457, S.D. 1. As amended, the purpose of this bill is to allocate up to \$100,000 each year from the Hawaii election campaign fund to the campaign spending commission to monitor compliance with election campaign contributions and expenditures provisions. The sections of this bill have also been renumbered accordingly.

Your Committee finds that, given the current budget crisis in the State, the Hawaii election campaign fund can be creatively tapped to provide some of the funding necessary to ensure compliance with campaign spending reporting requirements. Your Committee is aware that the Commission needs an investigator, fees for hearing officers, and moneys for packaging and distributing computer software to help candidates do a better job of reporting contributions and expenditures. Your Committee also realizes that the Commission has requested the minimum amount of funds necessary to accomplish these tasks. Your Committee encourages this type of responsible and reasonable funding request. Election contributions and spending compliance is important to maintain public confidence in its elected officials. Your Committee feels that allocating money from this fund to the Commission eliminates the need for a separate legislative appropriation.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 114, 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. 114, H.D. 2, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 2 (Kanno, Taniguchi).

SCRep. 2727 Ways and Means on H.B. No. 2526

The purpose of this bill is to include the prevention of domestic and sexual violence and the protection and treatment of victims of domestic and sexual violence as responsibilities of the Departments of Health and Human Services.

This bill also creates an Ad Hoc Committee on Domestic and Sexual Violence to consult with the Chief Justice on developing a transition plan and proposed legislation for the continuation of the Judiciary's programs for the prevention of domestic and sexual violence and the protection and treatment of victims of domestic and sexual violence under the auspices of the executive branch.

Your Committee finds that women in Hawaii are increasingly at risk of becoming victims of domestic and sexual violence, thus posing a serious public health problem. Your Committee believes there is an urgent need to strengthen the State's commitment to the provision of services and programs designed for the protection of women who are the victims of domestic and sexual violence and their children, and to treat the perpetrators of such violence.

Your Committee also finds that research has shown that the public health approach has been extremely effective in reducing violence against women. This approach involves a multidisciplinary collaboration with human services, justice, and law enforcement. Your Committee finds that, currently, the Department of Human Services and the Department of Health are working in cooperation and in partnership with private agencies to address domestic and sexual violence in the State. Your Committee further finds that this problem is so pervasive and complex as to require commitment by these two departments as well as the judicial branch of government. Your Committee notes that these departments and the Judiciary have already established a high level of expertise in this area, have demonstrated a strong commitment to make domestic violence prevention and treatment a high priority, and will be better able to coordinate effective programs with service providers.

Your Committee finds that, under this bill, the Chief Justice is to submit the transition plan to the Legislature prior to the 1997 regular session and to maintain the Judiciary's existing programs until the transfer of such programs to the executive branch is effected. Your Committee notes that, if the Chief Justice fails to submit a transition plan, as required, or the ad hoc committee on domestic and sexual violence fails to reach an agreement or consensus on the transition plan, the Legislature may determine the most appropriate placement of these programs prior to the next biennium.

Upon further consideration, your Committee has amended section 3 of this bill by:

- (1) Requiring the Chief Justice also to submit to the Legislature proposed legislation necessary to implement the transition plan;
- (2) Clarifying that no existing Judiciary program for the prevention of domestic and sexual violence and the protection and treatment of victims of domestic and sexual violence shall be terminated, transferred, or diminished in any manner in the absence of the enactment of legislation to such effect; and
- (3) Rewording some of the existing language for purposes of style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2526, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2526, S.D. 2.

Signed by the Chairman on behalf of the Committee.

Ayes, 7. Noes, none. Excused, 4 (Bunda, Kanno, Tanaka, Liu).

SCRep. 2728 Ways and Means on H.B. No. 2599

The purpose of this bill is to consolidate and coordinate programs and services within the Office of Youth Services to assure that the health and well-being of Hawaii's youth at risk are addressed.

In particular, this bill:

- (1) Requires the Office of Youth Services to be responsible for the prevention and control of juvenile delinquency and the rehabilitation of youth at risk;
- (2) Requires the Office of Youth Services to consolidate and coordinate the provision of prevention, intervention, treatment, assistance, monitoring, counseling, safety, self-care, information, and other services and programs for youth at risk through purchases of services pursuant to chapter 42D, Hawaii Revised Statutes;
- (3) Establishes a Juvenile Justice Management Commission to review the activities of the Office and the Family Court regarding the treatment and rehabilitation of youth committed to the custody or supervision of the Office. The Commission is to be comprised of representatives from the Office of Youth Services, the Court, the Legislature, the Honolulu Prosecuting Attorney, the Public Defender, the Department of Human Services, the Department of Health, the Department of Education, and the Honolulu Police Department;
- (4) Establishes the youth services programs revolving fund to enable the Office of Youth Services to seek and receive contributions;
- (5) Requires the Office of Youth Services to be the juvenile compact administrator;
- (6) Transfers the rights, powers, functions, and duties of the Family Court relating to the detention, custody, or treatment of minors subsequent to their adjudication by the Family Court to the Office of Youth Services effective July 1, 1998;
- (7) Transfers the operation of the detention home and shelter facilities, staff, and employees to the Office of Youth Services effective July 1, 1996; and

- (8) Transfers \$2,099,687 in purchase of services funds from the Family Court to the Office of Youth Services. These funds represent the supplemental budget requests of the Judiciary. This transfer is in line with the policy of the Judiciary to streamline its present operation and with the intent of the bill to centralize the purchases of youth services. The purpose of this fund transfer is for the purchase of services for youth at risk and those recommended by the Family Court for informal adjustment.

Your Committee finds that the growing problems associated with Hawaii's youth, including gang and related youth violence, the abuse of drugs and alcohol, teen pregnancies, and related problems demonstrate the need for comprehensive measures to address these problems to ensure that all of Hawaii's youth receive the services and support that are necessary for their growth and well-being. Your Committee finds that this bill, by consolidating programs and services in the Office of Youth Services, will help to address these problems and minimize duplicative efforts. This bill will further help to maximize resources, coordinate the delivery of services, ensure accountability, and give Hawaii's youth at risk the opportunity to reach their full potential and become law-abiding citizens of the community.

Your Committee has amended this bill by deleting the provisions that (1) retain employees whose positions are abolished as part of the transfer, and (2) transfer tenured and nontenured employees to civil service positions without necessity of examinations.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2599, S.D. 1, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2599, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2729 Ways and Means on H.B. No. 2636

The purpose of this bill is to establish an electronic prescription accountability system to monitor the prescribing and dispensing of certain controlled substances.

The system is designed to operate in an efficient and cost-effective manner that will not impede the appropriate and necessary prescribing of medication and that will ensure the confidentiality of sensitive medical information.

The Drug Enforcement Administration estimates that controlled prescription drug diversion constitutes a \$25,000,000,000 annual market. The diversion of controlled drugs occurs in a number of ways, including:

- Illegal acquisition of prescriptions by individuals from multiple physicians under the pretense of legitimate medical need;
- Indiscriminate, inappropriate, or careless prescribing by physicians or dispensing by pharmacists;
- Prescription forgery;
- Illegal sales by physicians or pharmacists; and
- Drug theft from physicians and pharmacies.

Your Committee finds that schedule II drugs that are legally available to the public for legitimate medical purposes, such as morphine, amphetamines, percodan, and secobarbital, have a high potential for abuse and addiction because of their psychological or physical effects on the user. Because of this, state law enforcement, since 1992, has concentrated its efforts on detecting drug diversion at the retail level through a voluntary prescription drug monitoring program known as HISTEM (Hawaii Schedule Two Electronic Monitoring). By tracking the prescribing, dispensing, and purchasing of certain controlled substances, HISTEM allows the Narcotics Enforcement Division to monitor the prescribing practices of all physicians statewide and to monitor targeted pharmacies, physicians, and geographic areas for regulatory compliance. The program currently monitors four thousand six hundred physicians and information from one hundred ten thousand schedule II prescriptions filled annually in the State. Over eighty per cent of all individuals identified through HISTEM are "multi doctor" patients who have knowingly obtained controlled substance prescriptions from several physicians either to support their own habit or to sell to others.

The impact of HISTEM on the enforcement of the controlled substance law is considerable. The HISTEM program enables Narcotics Enforcement Division investigators to confront physicians or patients at the outset of their illegal or substance abuse behavior and thus deter many of them from such illegal or abusive activity. Since its inception, the HISTEM program has initiated over five hundred felony drug cases. During this past year, the Narcotics Enforcement Division has experienced a steady increase in the number of investigative cases involving the diversion of pharmaceutical controlled substances, particularly among medical professionals and hard core drug users. Of the eight hundred twenty-five controlled substance cases investigated by the Narcotics Enforcement Division, three hundred eighty-two were initiated by the HISTEM program, representing an increase of forty-four per cent from the previous year. Part of the success of the HISTEM program can be attributed to the fact that ninety-seven per cent of all pharmacies doing business in the State are voluntarily participating in the program.

Your Committee notes that the HISTEM program recently was selected by the United States Department of Justice as one of the top programs in the country. Moreover, the Model Prescription Accountability Act, proposed by the President's Commission on Model State Drug Laws, is essentially the HISTEM program. Your Committee also finds that similar prescription monitoring programs implemented in ten other states have proven effective in reducing the diversion of controlled substances covered by the monitoring programs.

Your Committee further finds that State Narcotics Enforcement Division's HISTEM program has proven its ability to effectively detect persons attempting to divert certain prescribed controlled substances for illegal use. This bill will allow the State's Narcotics Enforcement Division to continue its electronic prescription monitoring program.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2636, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2730 Ways and Means on H.B. No. 2726

The purpose of this bill is to: allow the Auditor to maintain the confidentiality of its working papers; impose requirements on the measures submitted for the Auditor's review; and allow the Auditor to hire attorneys.

Your Committee finds that the scope and nature of the duties and responsibilities imposed upon the Auditor under chapters 23 and 26H, Hawaii Revised Statutes, are of such critical importance to the State, that the Auditor's working papers should be kept confidential. Your Committee further finds that subjecting the Auditor's working papers to disclosure requirements would seriously impair the Auditor's ability to fulfill mandated responsibilities and to discharge statutory duties. Your Committee also notes that the majority of states consider the state Auditor's working papers confidential.

Your Committee has amended this bill by: changing the incorrect reference to "subsection" to read "section" in the new language in section 1; and making several technical, nonsubstantive changes for purposes of style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2726, 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. 2726, H.D. 2, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2731 Ways and Means on H.B. No. 2729

The purpose of this bill is to make the Hawaii Omnibus Criminal Forfeiture Act permanent and to ensure that it is fair to persons claiming an interest in the property subject to forfeiture.

Specifically, this bill:

- (1) Requires an owner to prove that a forfeiture is grossly disproportionate to the nature and severity of the owner's conduct, and specifies the criteria that the court may use in making this determination;
- (2) Changes the State's initial burden of proof standard from that of "probable cause" to the higher standard of "preponderance of the evidence" that a defendant's property is subject to forfeiture;
- (3) Allows both the defendant and the State to present evidence and witnesses, and to cross-examine the witnesses, in a forfeiture proceeding; and
- (4) Makes the Hawaii Omnibus Criminal Forfeiture Act permanent by repealing its sunset provision.

Your Committee finds that forfeitures serve a public purpose of removing assets, from certain members of the public, that either facilitate or are derived from illegal activity. These forfeited assets or the proceeds therefrom are used to administer the forfeiture program, train and educate law enforcement personnel, and provide supplemental payments to state and county agencies for law enforcement purposes. Such use of these assets or proceeds is for a public purpose and benefit.

Your Committee also finds that forfeiture provides an immediate deterrent from future illegal activity involving those assets forfeited or precludes any further enjoyment of forfeited assets derived from illegal activity. In addition, although the deterrent impact cannot be measured in crime statistics, a decline in the criminal forfeiture fund's balance suggests that criminals may be getting the forfeiture message and can be taken as an indication of effective deterrence. Moreover, in view of shrinking financial resources and prison overcrowding, your Committee strongly believes that every lawful weapon in the war on crime that does not entail additional expenditure of public moneys or incarceration of additional inmates should and must be used to the fullest extent possible.

Finally, your Committee finds that: the Department of the Attorney General is implementing the forfeiture law appropriately, carefully, efficiently, and effectively; the law is resistant to abuse; and law enforcement agencies are not abusing the law.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2729, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2732 Ways and Means on H.B. No. 3153

The purpose of this bill is to comply with the federal Voting Rights Language Assistance Act of 1992 and to make general changes to the elections law regarding nomination papers.

The federal Act was passed to protect the voting rights of minority groups with limited proficiency in written English. In prior years, the Senate and House Clerks' offices have assisted by providing translations. Your Committee finds that it is appropriate to formalize this procedure and attach responsibility for the translation function to the chief elections officer.

Your Committee finds that responsibility for the interpretation of bills proposing constitutional amendments into plain language for the electorate has been given to the Legislative Reference Bureau. Your Committee notes that this responsibility extends only to providing information to the public in a readily comprehensible form, and does not extend to a legal interpretation of the bill, which would be the province of the Attorney General, nor does it include the translation of the material into any foreign language, which would be the responsibility of the chief election officer.

Your Committee also finds that clarification of the requirements for nominations papers are necessary to ensure that all relevant information is provided to the public.

Your Committee has amended this bill by inserting provisions which would:

- (1) Require the chief election officer or clerk to use the most currently compiled general county register to determine the eligibility of registered voters to sign for the candidate;
- (2) Authorize the chief election officer or clerk to reject a nomination paper for lack of sufficient eligible signers; and
- (3) Provide a procedure for withdrawing a voter's signature from a candidate's nomination paper no later than 4:30 p.m. on the fourth business day prior to the close of filing and for notifying the candidate thereof within twenty-four hours of receipt of a notice to withdraw.

Your Committee has further amended this bill by deleting the amendments proposed to:

- (1) Section 12-3, Hawaii Revised Statutes, which would have made various modifications to the format requirements of the nomination papers of candidates; and
- (2) Section 12-8, Hawaii Revised Statutes, which would have enabled political parties to file objections to the nomination papers of any candidate.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3153, 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. 3153, H.D. 2, S.D. 2.

Signed by the Chairman on behalf of the Committee.

Ayes, 7. Noes, none. Excused, 4 (Bunda, Kanno, Tanaka, Liu).

SCRep. 2733 Ways and Means on H.B. No. 3362

The purpose of this bill is to reinstate district boundaries on Oahu for non-judicial purposes.

Specifically, this bill clarifies that election district boundaries are exclusively governed by article IV of the Constitution of the State of Hawaii and chapter 25, Hawaii Revised Statutes, and are not affected by the amendments to the law in this bill. This bill provides that current district boundaries on Oahu apply for judicial purposes only. For non-judicial purposes the pre-1989 and pre-1991 boundaries of the Ewa and the Koolauloa district, respectively, are reinstated.

The current boundaries were used to establish more convenient judicial districts for residents. An unfortunate side effect has shifted the district boundaries away from the tax map key system which has altered the ability to track the comparability of information over time. This bill restores the original districts for non-judicial purposes so that information tracking is not compromised.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3362, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.

Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2734 Ways and Means on H.B. No. 3429

The purpose of this bill is to clarify the treatment of gift certificates and credit memos that are unused or unredeemed.

This bill amends the unclaimed property law relating to gift certificates and credit memos by:

- (1) Clarifying that a gift certificate or credit memo is deemed abandoned five years after the date of issuance;

- (2) Clarifying that if a gift certificate or credit memo has an expiration date of less than five years it shall be deemed abandoned on the date of its expiration;
- (3) Exempting gift certificates with no expiration date from the above rules;
- (4) Providing that gift certificates and credit memos deemed abandoned shall not escheat to the State; and
- (5) Adding definitions of "gift certificate" and "certificate issuer".

Your Committee finds that these clarifications bring consistency between the unclaimed property law for gift certificates and the unfair and deceptive practices law related to gift certificates as set out in section 481B-13, Hawaii Revised Statutes.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3429, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2735 Ways and Means on H.B. No. 3538

The purpose of this bill is to make housekeeping amendments to the criminal injuries compensation law.

In particular, this bill:

- (1) Amends the powers and procedures of the Criminal Injuries Compensation Commission to require that written appeals be received by the commission within sixty days of the mailing of a certified copy of the decision and order;
- (2) Amends the cap on reasonable attorneys' fees for awards in excess of \$1,000 from no more than fifteen per cent of the award to \$150;
- (3) Amends the law allowing the commission to reconsider its own orders or decisions on its own motion by providing that the reconsideration be made in the absence of an appeal, and further provides for the mailing, rather than service, of the commission's order or decision to applicants at the applicants' last known address, who are aggrieved by that order or decision and who seek a reconsideration or appeal to the circuit court;
- (4) Expands the eligibility for compensation by replacing "relative of a deceased victim" with "any person" in order to provide compensation for those who have incurred expenses on account of a deceased victim's injuries and death; and
- (5) Allows for the denial of a claim in its entirety if an applicant makes a false statement or representation of a material fact which was discovered prior to the payment of compensation.

Your Committee agrees with the overall intent of this bill, and finds that it will enable the Criminal Injuries Compensation Commission to more effectively perform its important functions.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3538, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2736 Ways and Means on H.B. No. 3542

The purpose of this bill is to allow the Director of Public Safety to garnish committed persons' funds for certain claims.

These claims include victim restitution, court-ordered child support payments, replacement costs for facility damage, and reimbursement for extraordinary costs such as litigation-related photocopying or postage.

Your Committee finds that existing law prohibits garnishment of moneys earned by committed persons and held by the Department of Public Safety except for victim restitution and child support. However, committed persons vandalize correctional facilities or incur extraordinary costs for photocopying or postage for purposes of litigation, which may substantially increase the cost of their incarceration. Your Committee finds that these expenses, as well as restitution and child support, should more appropriately be the responsibility of the committed person, rather than state taxpayers.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3542, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2737 Ways and Means on H.B. No. 3548

The purpose of this bill is to make an emergency appropriation to the Department of Public Safety to provide for the continued operation of its programs for fiscal year 1995-1996.

Your Committee finds that this funding emergency arises as a result of the department's efforts to alleviate the severe overcrowding in state correctional facilities by entering into an agreement with Newton County, Texas, to house three hundred Hawaii inmates in Texas facilities at a cost of \$42 per day per inmate. However, your Committee further finds that funding this agreement necessitates the expenditure, before the end of the current fiscal year, of all funds appropriated during the 1995 regular session for the department's other programs.

Accordingly, your Committee finds that this bill, which has been recommended by the Governor for immediate passage, is necessary to prevent the shutdown of essential operations at state correctional facilities, prevent the possibility of the filing of lawsuits based on unconstitutional conditions at these facilities, and protect the health and safety of the public.

Your Committee has amended section 4 of this bill by providing that the expenditure is for the sole purpose of reimbursing the various programs of the Department of Public Safety for funds taken and expended to transfer three hundred Hawaii inmates to correctional facilities in Newtown County, Texas.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3548, 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. 3548, H.D. 1, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2738 Ways and Means on H.B. No. 3636

The purpose of this bill is make the appointment process for the Registrar of the Land Court and the Director of Family Court consistent with the civil service requirements of chapters 76 and 77, Hawaii Revised Statutes.

In addition, this bill exempts the following positions from civil service requirements: one secretary for the Judicial Council; one additional law clerk for each of the Civil Administrative Judge, the Civil Motions Judge, and the Criminal Motions Judge of the First Circuit Court.

Present law provides for the appointment of the Registrar of the Land Court and the Director of Family Court by the Land Court Judge and the Senior Family Court Judge, respectively. Your Committee finds, however, that these positions are permanent civil service positions and, as such, have been filled in accordance with civil service requirements. Your Committee further finds that this bill is necessary to conform the language regarding the appointment of these two positions with other civil service positions within the Judiciary.

Your Committee has amended this bill by:

- (1) Deleting the existing section 1 concerning exempt positions;
- (2) Adding a new section 1 that reduces the number of allowable positions for the judiciary within salary ranges SC-1, SC-2, and SC-3 from two to one;
- (3) Adding a new section 2 that imposes restrictions on the use of salary ranges ES-1, ES-2, and ES-3, similar to those presently imposed on salary ranges SC-1, SC-2, and SC-3;
- (4) Adding a new section requiring, in the event a position within the Judiciary has to be downgraded or reclassified as a result of the bill, that the position so downgraded or reclassified be one whose incumbent possesses the least seniority within the Judiciary; and
- (5) Renumbering the sections consecutively.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3636, S.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as H.B. No. 3636, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2739 Ways and Means on H.B. No. 3656

The purpose of this bill is to establish a trust fund for the benefit of the Judiciary History Center and authorize the operation of a concession at the Center.

This bill creates the judiciary history center trust fund to be administered by the Friends of the Judiciary History Center, a non-profit organization. All funds that are publicly and privately contributed and those funds earned will be deposited into the fund. The funds shall be used for the purposes of the Center.

This bill also authorizes the operation of a concession within and on the grounds of the Judiciary History Center. Funds from the concession shall be deposited into the trust fund and used for the purposes of the Judiciary History Center.

The bill exempts the Judiciary History Center from the requirement that only duly authorized blind or handicapped vendors can operate concession facilities in public buildings.

Your Committee finds this to be an economically viable way to keep an important program alive. The passage of this bill will allow the Judiciary History Center to continue to provide public education about the history of our courts, and the role they play in our society.

Your Committee has amended this bill by clarifying that public contributions being made to the fund are to be federal contributions.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3656, H.D. 2, S.D. 1, and recommends that it pass Third Reading in an amended form attached hereto as H.B. 3656 H.D. 2, S.D. 2.

Signed by the Chairman on behalf of the Committee.

Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2740 Ways and Means on H.B. No. 50

The purpose of this bill is to ensure that persons with disabilities can access public buildings and facilities.

Specifically, this bill:

- (1) Requires all plans and specifications for not only the construction, but the building, altering, repairing, improving, or renovation, of all public buildings as well as public improvements to real property, subject not only to chapter 103, Hawaii Revised Statutes, but to chapter 103D, Hawaii Revised Statutes, relating to the public procurement code, to conform to the Americans with Disabilities Act Accessibility Guidelines, as well as accessibility guidelines adopted by the architectural access committee;
- (2) Deletes the requirement for the Comptroller and Director of Finance to report annually on compliance;
- (3) Requires agencies to seek from the Commission on Persons with Disabilities, technical review and approval rather than advice and recommendations on construction plans;
- (4) Requires all agencies to provide written assurance that all public buildings, facilities, or improvements comply with plans approved by the Commission and that all value engineering, field changes, change orders, or alterations and deviations comply with design guidelines prior to final payment and requires the Commission to adopt rules including for prompt review of construction plans and specifications;
- (5) Authorizes the architectural access committee to receive input related to the Americans with Disabilities Act, to establish interpretive opinions for uncovered design specifications, and requires the architectural access committee rather than the Director of Health to adopt rules for implementation; and
- (6) Specifically grants to the Commission on Persons with Disabilities the power to provide technical review and approval of plans and specifications and to adopt rules to provide accessibility guidelines.

Your Committee, after careful consideration, has amended this bill by deleting its contents and replacing it with the contents of S.B. No. 2788, S.D. 1. As amended, the purpose of this bill is to enable the Commission on Persons with Disabilities to better implement accessibility guidelines for persons with disabilities.

Specifically, the amended bill:

- (1) Allows the Commission on Persons with Disabilities to adopt rules to implement section 103-50, Hawaii Revised Statutes, relating to building design for disabled persons;
- (2) Clarifies that the Americans with Disabilities Act Accessibility Guidelines, as adopted and amended by the architectural access committee, apply only to plans and specifications for the construction, and not the building, altering, repairing, improving, or renovation, of all public buildings, nor to public improvements to real property, subject to the procurement code;
- (3) Retains the deletion of the requirement for the Comptroller and Director of Finance to report annually;
- (4) Deletes the requirement for agencies to seek technical review and approval from the Commission on Persons with Disabilities for construction plans and requires only the seeking of advice and recommendations;
- (5) Deletes the specific powers granted to the Commission to provide technical review and approval of plans and specifications;
- (6) Deletes the requirement for agencies to provide written assurance of compliance for plans and change orders before final payment and the requirement for the Commission to adopt rules for review of construction plans and specifications;
- (7) Deletes the authorization for the architectural access committee to receive input related to the Americans with Disabilities Act and to establish interpretive opinions for uncovered design specifications, but retains the requirement for the architectural access committee rather than the Director of Health to adopt rules for implementation and further clarifies that the committee may establish guidelines for design specifications not

covered by the Americans with Disabilities Act Accessibility Guidelines, as adopted and amended by the committee;

- (8) Deletes the power of the committee to hire staff;
- (9) Reduces membership of the Hawaii State Coordinating Council on Deafness from thirteen to five and reduces from seven to three the number of members who must be deaf, hard-of-hearing, or deaf-blind and adds that family members must be knowledgeable about communication access;
- (10) Deletes, with regard to the Council, the county residency requirement; provision for quorum; election of officers by the Council; and uncompensated service by Council members;
- (11) Clarifies that the Council may establish other communication access services for the deaf, including recommended fee schedules of persons who may provide communication access services;
- (12) Requires the Council to maintain a list of providers of communication access services and their qualifications;
- (13) Deletes, with regard to the Commission on Persons with Disabilities, the quorum provision and the election of chairperson;
- (14) Allows the Commission to hire staff to assist the implementation of sections 103-50, 103-50.5, 347D-3, and 348E-3, Hawaii Revised Statutes, relating to building design for disabled persons, the architectural access committee, the Council's responsibility for communication access services, and the Commission's duties, respectively; and
- (15) Repeals sections 347D-4 and 347D-5, Hawaii Revised Statutes, relating to Council payment for interpreter services and Council hiring of staff, respectively.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 50, 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. 50, H.D. 2, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 2 (Bunda, Tanaka).

SCRep. 2741 Ways and Means on H.B. No. 3211

The purpose of this bill is to regulate the imposition of impact fees.

Specifically, this bill prohibits state agencies from assessing impact fees on construction or expansion projects requiring the approval of the agency unless the agency has developed a schedule of fees. This bill also requires the counties to enact appropriate ordinances prior to assessing impact fees on any development.

Your Committee finds that impact fees paid by developers provide a reliable source of funds to pay for the additional services and infrastructure that become necessary as the result of new developments. These fees ensure that developers contribute their fair share toward the cost of the improvements to be made. The adoption of rules by state agencies and the enactment of ordinances by the counties will ensure the development of equitable rates payable by developers.

Your Committee has amended this bill by including a provision which allows each county and every state agency authorized to assess impact fees under this bill, to adopt temporary rules establishing impact fees. The rules shall be effective until such time that permanent rules can be adopted.

Your Committee has exempted these temporary rules from the public notice and public hearing requirements of the Administrative Procedure Act in order to assure that projects will not be delayed by the more cumbersome aspects of the rulemaking process.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3211, 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. 3211, H.D. 1, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 2 (Bunda, Tanaka).

SCRep. 2742 Ways and Means on H.B. No. 3340

The purpose of this bill is to streamline the Comptroller's preaudit review process by requiring preaudit reviews only for proposed payments of \$10,000 or more.

Your Committee finds that other measures relating to the duties and powers of the Comptroller will further improve the operation of government and result in savings to the State. Accordingly, your Committee has made the following amendments:

- (1) Added a new section 2 to the bill to amend section 40-4, Hawaii Revised Statutes, to eliminate the requirement to publish the State's annual financial statements in a newspaper of general circulation;

- (2) Added a new section 3 to amend section 40-51, Hawaii Revised Statutes, to allow the Department of Human Services to implement an electronic benefits transfer system rather than issue checks for financial assistance and food stamps; and
- (3) Added a new section 4 to amend section 78-12, Hawaii Revised Statutes, to allow a flexible method for recovery of overpayments of salaries or wages to public employees.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3340, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3340, H.D. 1, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 2 (Bunda, Tanaka).

SCRep. 2743 Ways and Means on H.B. No. 3577

The purpose of this bill is to amend part XII of chapter 286, Hawaii Revised Statutes, relating to the transportation of hazardous materials, to change certain terminology.

Specifically, this bill renames "etiologic agent" as "infectious substance" and includes diseases to animals in the new term. This bill also adds medical wastes to the scope of part XII, and appropriates funds for a Department of Transportation study of a recommended route for the transport of hazardous substances.

Your Committee believes that the transportation of hazardous materials and like substances is a matter of grave public concern and policy decisions concerning it should be made by the political bodies of government. Thus, statutory changes in this area are more appropriate than relying on administrative rule changes.

Your Committee has amended this bill by deleting the section on the Department of Transportation study.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3577, 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. 3577, H.D. 2, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 2 (Bunda, Tanaka).

SCRep. 2744 Ways and Means on H.B. No. 3579

The purpose of this bill is to establish a transportation improvement revolving fund to finance priority projects identified in the statewide transportation plan and supplement the funds of other transportation projects that require additional funding.

This bill will enable the state Department of Transportation to assist private developers in the up-front financing of transportation improvements required by the State or the counties as a condition of the approval of any development. Public funds will be provided to match the amounts put forth by developers at the beginning of the project. Developers will then begin repaying the public portion as development progresses. Moneys received from developers will be repaid into the fund and will then be used to finance other priority projects of the State.

Your Committee has amended this bill by providing for its automatic repeal by operation of law after five years.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3579, 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. 3579, H.D. 2, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 4 (Bunda, Kanno, Tanaka, Liu).

SCRep. 2745 (Majority) Ways and Means on H.B. No. 3618

The purpose of this bill is to provide for the review of administrative agency rules by the Joint Legislative Management Committee.

This bill allows any group of one hundred or more registered voters who have a substantial interest in a rule, or any person who may be directly, substantially, and adversely affected by the application of a rule, to file an application for review with the co-chairpersons of the Joint Legislative Management Committee, explaining why the rule, in the opinion of the applicant, is inappropriate or unnecessary, and recommending proposed changes in the rule or the statute which the rule implements. This bill also establishes criteria under which the Committee is to review the rule, including whether the rule is consistent with and necessary to the intent of the statute which the rule implements, and whether the effects of the rule are reasonable, including its benefits and costs, and establishes provisions for Committee recommendations for legislative action.

Your Committee agrees with the intent of this bill, which gives the legislative branch expanded oversight over agency rulemaking to ensure that agencies are complying with the intent of the Legislature in adopting rules to implement statutes enacted by the Legislature.

Upon further recommendation, your Committee has amended this bill by amending the Hawaii Administrative Procedure Act to expressly prohibit agencies from exceeding the scope of the substantive statutory authority conferring the power to adopt rules.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3618, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3618, H.D. 2, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 8. Noes, 1 (Liu). Excused, 2 (Kanno, Taniguchi).

SCRep. 2746 Ways and Means on H.B. No. 3789

The purpose of this bill is to require the Administrator of the Procurement Policy Office to include the names of producers and manufacturers in the State who are authorized to supply locally manufactured soil enhancement products to state agencies on the Hawaii products list.

Your Committee finds that Hawaii's unique volcanic soil and rich organic matter provide the perfect medium for the cultivation of agricultural as well as horticultural species throughout the State. Free of foreign insects, weeds, and other potentially harmful pathogens, these products are the logical choice for growers concerned about preserving Hawaii's unique native plant species and environment. Your Committee finds that a policy requiring state agencies to utilize locally-manufactured soil enhancement products is entirely consistent with the State's objective to protect Hawaii's native plant species and environment.

Your Committee further finds that the State's procurement law currently entitles any bidder who is current on state tax payments over the preceding two-year period--four years in the case of public works contracts--to a contract award preference if the bid amount does not exceed, by more than five per cent, the bid of any competing bidder who is in arrears. This preference is necessary because of the fact that firms who consistently pay their taxes are often at a disadvantage to those firms that withhold their payments. To enhance the effectiveness of the incentive, your Committee finds that preference provision should be strengthened. Your Committee has amended this bill by strengthening the State's procurement standards by allowing only those firms who have diligently paid state taxes for four successive years--eight years in the case of public works contracts--to qualify for the preference benefits provided under the law. Additionally, this bill raises the bid percentage preference to fifteen per cent.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3789, 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. 3789, H.D. 2, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 2 (Bunda, Tanaka).

SCRep. 2747 Ways and Means on H.B. No. 44

The purpose of this bill is to authorize the issuance of general obligation bonds and to declare that the total amount of principal and interest estimated and calculated for all bonds issued and outstanding will not cause the State's debt limit to be exceeded at the time of issuance.

This bill meets the requirements of article VII, section 13, of the Constitution of the State of Hawaii, which specifies that the Legislature must include a declaration of findings that the debt limit will not be exceeded by issuance of legislatively authorized general obligation bonds.

Your Committee finds that timely information can have a profound impact of the accuracy of decisions made by the Legislature. Unfortunately, information with respect to the disbursement and use of bond proceeds in accordance with the mandates of the Legislature is not provided to decision-makers by the Governor on a regular basis. To ensure the timely receipt of such information by decision-makers, your Committee has amended this bill by including a new section which requires the Governor to submit monthly reports to the Legislature on the use of bond proceeds.

Your Committee has further amended this bill by changing the effective date to July 1, 1996.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 44, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 44, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2748 (Majority) Ways and Means on H.B. No. 582

The purpose of this bill is to require the Department of Business, Economic Development, and Tourism and the Department of Land and Natural Resources to develop a plan to encourage ecotourism in Hawaii.

Your Committee has amended this bill by replacing its contents entirely and substituting provisions to restructure the distribution of revenues collected under the transient accommodations tax (TAT), commonly known as the hotel room tax. The effective date is changed from July 1, 1995 to July 1, 1996.

Under current law, TAT revenues are distributed as follows:

- (1) One-sixth to the convention center capital and operations special fund;
- (2) Five per cent of the remainder to the State; and
- (3) Of the remainder, 14.5 per cent to Kauai, 18.6 per cent to Hawaii county, 44.1 per cent to the City and County of Honolulu, and 22.8 per cent to Maui county.

As amended by this bill, while the one-sixth share to the convention center capital and operations special fund would remain unchanged, the remaining five-sixths will be distributed as follows:

- (1) A total of \$70,000,000 to the counties with Kauai, Hawaii, and Maui counties each receiving twenty per cent of that amount and forty per cent received by the City and County of Honolulu;
- (2) An unspecified amount to the Hawaii Visitors Bureau as appropriated by the Legislature; and
- (3) The remainder to the state general fund.

Additionally, a county's TAT share will be reduced if the county raises its property tax rate applicable to hotels without likewise raising the tax rate on other real property. The county's share will be reduced by an amount equal to the increase in that county's tax revenues attributable to the increased tax rate for hotel property. The amount withheld will be retained by the State.

Your Committee finds that the \$70,000,000 promised to the counties under this measure is reasonable since the figure approximates the actual total county share of the TAT revenues received annually between fiscal years 1994 and 1995. The total county share ranged from \$71,300,000 to \$78,600,000. The \$70,000,000 figure is also reasonable because it does not exceed that actual total TAT revenues of any year of that same fiscal period. Total TAT revenues ranged from \$75,200,000 to 82,700,000.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 582, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 582, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 8. Noes, 1 (Liu). Excused, 2 (Bunda, Tanaka).

SCRep. 2749 Ways and Means on H.B. No. 894

The purpose of this bill is to repeal the sunset provision of section 39A-52, which would have the effect of indefinitely authorizing the issuance of special purpose revenue bonds to finance health care facilities.

Your Committee has amended this bill by replacing its contents with those of S.B. No. 2403, S.D. 1, relating to the issuance of special purpose revenue bonds to assist utilities serving the general public. More specifically, this bill authorizes the Department of Budget and Finance, with the approval of the Governor, to issue special purpose revenue bonds in a total amount not to exceed \$150,000,000 for multi-project programs for the local furnishing of electric energy by electric utility companies serving the general public on Maui and Oahu. The bill as amended also authorizes the issuance of refunding special purpose revenue bonds in whatever principal amounts the Department of Budget and Finance determines to be necessary to refund.

Your Committee also finds that the issuance of special purpose revenue bonds and refunding special purpose revenue bonds as provided in the amended bill will help electric utilities in obtaining lower interest rate bond financing for capital improvement projects. This savings will directly benefit consumers since the cost of financing is generally factored into the rates that they pay. The bonds will also be risk free to the State, since they are not secured by the general credit or the revenues and taxes of the State, but rather solely by the utility companies.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 894, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 894, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 2 (Bunda, Tanaka).

SCRep. 2750 Ways and Means on H.B. No. 2401

The purpose of this bill is to require the Governor, in an even-numbered year, to submit to the Legislature a supplemental budget to amend any appropriation for the current fiscal biennium no fewer than thirty days before the Legislature convenes in regular session.

Your Committee received comments on this bill from the Department of Budget and Finance indicating that the Governor, in an even-numbered year, is already required by law to submit a supplemental budget (in the form of the Executive Program and Financial Plan and Budget report) to amend any appropriation for the current fiscal biennium no fewer than thirty days before the Legislature convenes in regular session.

Your Committee has therefore amended this bill by clarifying that the Governor is required to submit a supplemental budget bill, rather than a supplemental budget, to the Legislature.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2401, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2401, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 2 (Bunda, Liu).

SCRep. 2751 Ways and Means on H.B. No. 2502

The purpose of this bill is to transfer the excess balances of various revolving funds to the state general fund.

As received by your Committee, this bill would have transferred moneys from the rental assistance revolving fund, the agriculture loan revolving fund, and the aquaculture loan revolving fund to replenish the balance of the state general fund during fiscal year 1996-1997.

Although the proposed cash transfer would have assisted in addressing the immediate cash flow needs of the State, your Committee finds that the urgency of the budgetary crisis dictates that a more permanent solution to the cash management problems of the State be developed. In this regard, your Committee has amended this bill by replacing its entire text with a proposal to add three new sections to chapter 37, Hawaii Revised Statutes, to establish new budgetary procedures that mandate minimum general fund balances. The new provisions will: (1) set new minimum general fund balance requirements for the governor and the legislature to observe when developing the state budget; (2) set new limits and procedures for the governor to follow when proposing spending restrictions; and (3) identify various economic and budgetary conditions which would require the convening of a special session by governor. Your Committee finds that this bill compels the State to exercise the discipline necessary to contend with future fluctuations in Hawaii's economy in a more responsible manner.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2502, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2502, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 2 (Bunda, Tanaka).

SCRep. 2752 Ways and Means on H.B. No. 3300

The purpose of this bill is to provide the supplemental appropriations for the Office of Hawaiian Affairs (OHA) by amending the biennial budget (Act 19, Special Session Laws of Hawaii, 1995).

Your Committee finds that although OHA did not submit any proposed revisions to the biennium budget, fiscal conditions in the State require that budgets for all agencies be scrutinized carefully.

In hearings before your Committee this session, members of OHA expressed an interest in pursuing an arrangement whereby funding for all personnel would be provided by the trust in return for the State providing fifty per cent of the funding for all other operating expenses. Because this proposal was not formally extended by the OHA Board of Trustees, and because such an arrangement might hold unforeseen obligations to the State, your Committee decided that the proposal was best not addressed at this time.

The discussion, however, did raise the possibility of OHA assuming more responsibility for the funding of its personnel. Your Committee felt that because OHA does provide services to individuals not meeting the blood quantum requirement, using the trust to wholly fund these positions would be inappropriate at this time. After review, your Committee felt that OHA could increase its share of the funding of some positions from fifty per cent trust funded to seventy-five per cent trust funded. This measure reflects this revised funding schedule.

In addition to a review of funding for personnel, your Committee also reviewed expenditures made for travel and found that OHA had spent substantial amounts of both trust and general funds for travel, subsistence, and vehicle rental. Your Committee recommended that given these austere times, general funds supporting travel for OHA should be eliminated.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3300, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3300, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2753 Ways and Means on H.B. No. 3342

The purpose of this bill is to improve the administration of the interagency federal revenue maximization revolving fund.

The interagency federal revenue maximization revolving fund is a tool to assist the State in aggressively pursuing, collecting, and disbursing additional federal fund reimbursements. Your Committee finds that, with the state economy in its current condition, it is necessary to pursue every source of revenue.

Your Committee has amended this bill by:

- (1) Removing the amendments relating to the Department of Education and the Department of Health;
- (2) Specifying that up to twenty per cent of the maximized revenues received by the State for services attributable to the Department of Human Services shall be appropriated for that department for the next fiscal year and specifying that these moneys be used only for state or federally mandated programs;
- (3) Adding a \$1 appropriation for fiscal year 1997-1998; and
- (4) Making technical, nonsubstantive changes.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3342, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3342, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2754 Ways and Means on H.B. No. 3344

The purpose of this bill is to appropriate funds for the payment of judgments and settlements of claims against the State.

The claims contained in this bill have been submitted by the Attorney General. Your Committee finds that payment of these claims is appropriate.

Your Committee has serious concerns about paying claims each year without the departments being accountable for these losses in state funds. Your Committee feels that appropriate remedial action should be taken and that the Attorney General should make recommendations to the departments on how to prevent claims from arising in the future.

Your Committee, on the request of the Attorney General, has amended the bill by increasing the Lonnie Baker claim by \$525 and adding eight claims for Cochran, Collins, Ferrerra, Fuji Photo, Ginn, Keawe, Roe, and Wheeler.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3344, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3344, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2755 Ways and Means on H.B. No. 3382

The purpose of this bill is to repeal the authority of state departments to transfer excess moneys in their departments' special funds to the state general fund.

Your Committee has amended this bill by:

- (1) Establishing six special funds for the purpose of depositing all interest payments and any fees collected on behalf of the Hawaii large fishing vessel purchase, construction, renovation, maintenance, and repair loan revolving fund; the Hawaii small fishing vessel purchase, construction, renovation, maintenance, and repair loan revolving fund; the state disaster revolving loan fund; the Hawaii capital loan revolving fund; the Hawaii community-based development revolving fund; and the Hawaii innovation development revolving fund, respectively;
- (2) Requiring moneys in the foregoing special funds to be used to pay the operational expenses of their respective revolving funds, and requires any excess moneys remaining in the special funds at the end of the fiscal year to be deposited into their respective revolving funds;
- (3) Transferring the following sums, which are deemed to be in excess of the requirements of the respective special, trust, or revolving funds, to the state general fund for fiscal year 1996-1997:
 - (A) From the rental assistance revolving fund, \$23,600,000;
 - (B) From the agriculture loan revolving fund, \$3,700,000;
 - (C) From the aquaculture loan revolving fund, \$400,000;
 - (D) From the dwelling unit revolving fund, \$20,500,000; and
 - (E) From the homes revolving fund, an unspecified amount;

- (F) From the state motor pool revolving fund, \$225,000;
 - (G) From the state parking revolving fund, \$300,000;
 - (H) From the medicaid investigations recovery fund, \$200,000;
 - (I) From the Hawaii small fishing vessel purchase, construction, renovation, maintenance, and repair loan revolving fund, \$50,000;
 - (J) From the Hawaii large fishing vessel purchase, construction, renovation, maintenance, and repair loan revolving fund, \$150,000;
 - (K) From the Hawaii innovation development revolving fund, \$150,000;
 - (L) From the Hawaii capital loan revolving fund, \$2,000,000;
 - (M) From rental housing trust fund, \$1,000,000;
 - (N) From the housing for elders revolving fund, \$100,000;
 - (O) From the teachers' housing revolving fund, \$25,000;
 - (P) From the University of Hawaii parking revolving fund, \$100,000;
 - (Q) From the state highway fund, \$17,250,000; and
 - (R) From the state educational facilities improvement special fund, an unspecified amount;
- (4) Requiring state and county agencies to pay interest on overdue bills at a rate equal to the prime rate for each calendar quarter plus an unspecified rate, up to a maximum of twelve per cent per year, rather than at the current rate of twelve per cent simple interest per year; and
- (5) Making technical nonsubstantive changes for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3382, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3382, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2756 Ways and Means on H.B. No. 3389

The purpose of this bill as received is to establish policies and controls over lease financings known as municipal leases.

In particular, this bill makes lease payments a formal part of the budgeting process, and permits the Legislature and Governor to decide which projects are to be lease-financed and the amount of annual lease payments to be appropriated. Municipal leases are often referred to as "off-the-book" financings, since they may be used to avoid bond financings for capital projects. Although these financings are generally not considered to be debt and do not count against an issuer's debt limit, the increasingly frequent use of these types of financings has caused rating agencies to take a closer look at them. The unrestricted use of these financings may therefore have an adverse impact on the State's credit rating.

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

- (1) Amending the findings and purpose section by describing situations under which vendor leases have been sold on the secondary market as certificates of participation and the effects of default on payments to investors;
- (2) Deleting the requirement of legislative approval from the section on financing agreements; and
- (3) Deleting any requirements for approval by the Attorney General.

Your Committee finds that this bill will provide needed financial oversight of municipal lease transactions by the Director of Finance thereby permitting the State's financial policies to be carried out systematically and integrally by state departmental personnel with expertise in these matters.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3389, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3389, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2757 Ways and Means on H.B. No. 3551

The purpose of this bill is to ease the compliance burden of taxpayers and reduce the costs of administering the state income tax law by amending the law to more closely conform to the Internal Revenue Code.

This administration bill goes further than the annual conformity measure that is required to update the federal provisions which are operative for Hawaii state income tax purposes. A committee of Department of Taxation employees made these recommendations to bring Hawaii law into closer conformity with the Internal Revenue Code with the goals of streamlining income tax auditing and making the new "one-page" individual income tax return, Form N-11, even simpler.

Due to the technical nature of the recommendations, a task force of tax practitioners was convened and found the proposals to be unproblematic. Their additional recommendations are included in the amendments made to this bill by your Committee.

Your Committee has amended this bill by adding:

- (1) A new subsection (g) to section 235-2.4, Hawaii Revised Statutes, for the treatment of section 521 (with respect to cooperatives) and subchapter T (sections 1381 to 1388, with respect to cooperatives and their patrons) of the Internal Revenue Code to coordinate language of this provision with that in section 421-23, Hawaii Revised Statutes;
- (2) Language to clarify the application of section 7518 (relating to capital construction funds) prior to the adoption of this section for state income tax purposes;
- (3) A clarification to section 235-55(a), Hawaii Revised Statutes, regarding the application of tax credits for those who file joint resident returns; and
- (4) An amendment to section 235-61(c), Hawaii Revised Statutes (withholding of tax on wages), that limits the maximum that can be withheld to eight per cent.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3551, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3551, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2758 Ways and Means on H.B. No. 3554

The purpose of this bill is to extend funding for support of services-revenue collection to fiscal year 1996-1997 and authorize the acquisition of the new integrated tax information system.

This bill amends Act 218, Session Laws of Hawaii 1995, to prevent funds from lapsing into the general fund by extending the authorization for the general appropriation for supporting services-revenue collection (TAX 107) for the Department of Taxation to include fiscal year 1996-1997. In addition, it authorizes the acquisition of the new integrated tax information management system.

This measure also authorizes the Department of Taxation to enter into performance-based contracts to acquire automated tax systems. The term of any performance-based contract cannot be more than ten years.

The Department of Taxation predicts that the current computer system will not be able to handle the processing of any tax returns after the year 2000. Adapting the current system would cost \$5,000,000. The new integrated tax information management system promises to:

- (1) Increase collection capabilities significantly through allocation of resources, information databases, and cross-functional applications;
- (2) Simplify taxpayer filings and provide a more user-friendly interface with the public;
- (3) Automate tax filings and processing;
- (4) Expand capacity for research and revenue analysis;
- (5) Provide needed security for the Department of Taxation's databases; and
- (6) Permit more flexibility in accommodating tax law changes and initiatives to improve tax administration.

Your Committee agrees that the integrated tax information system is sorely needed in the State and has amended this bill to reflect the cost savings that the Department of Taxation has achieved in the early stages of this project.

Your Committee has amended this bill by:

- (1) Changing the appropriated amount from \$2,540,046 to \$937,355 for fiscal year 1995-1996 and \$905,600 for fiscal year 1996-1997;

- (2) Conditioning the approval of the financing agreement upon a finding by the Comptroller and the Director of Finance that the agreement will result in a total cost savings of at least \$5,000,000 over the life of the agreement; and
- (3) Removing the exemption of the performance-based contracts from all other laws.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3554, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3554, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2759 Ways and Means on H.B. No. 3563

The purpose of this bill is to allow the Department of Taxation to charge fees to recover the administrative costs of providing certain services to the public.

Specifically, this bill allows the charging of fees for sponsoring seminars and workshops, and reissuing taxpayer refund checks. Additionally, this bill authorizes the Director of Taxation to waive fees in hardship cases.

Your Committee has amended this bill by removing the department's authority to charge fees for reissuing taxpayer refund checks. Your Committee has further amended this bill by giving the department the authority to charge fees for disseminating research and reference materials through magnetic media or CD-ROM or in other machine-readable form.

Your Committee finds that the department should have the statutory authority to recover costs or expenses for services deemed atypical, such as those being added by this bill.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3563, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3563, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2760 Ways and Means on H.B. No. 3565

The purpose of this bill is to prevent the application of the bulk transfer law to transfers involving the leasing of property or the creation or release of a lien or encumbrance.

The bulk transfer law requires either the purchaser or seller of business assets to file a report with the Department of Taxation to confirm that all taxes, penalties, and interest are paid. The Department issues a certificate of bulk transfer which acts as a tax clearance. This law was never intended to apply to transfers involving the leasing of property or the creation or release of a lien or encumbrance.

Your Committee has amended this bill by making a housekeeping amendment that conforms the penalty provisions of the bulk transfer law to Act 92, Session Laws of Hawaii 1995, as well as technical, nonsubstantive amendments.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3565, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3565, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2761 Ways and Means on H.B. No. 3567

The purpose of this bill is to allow the Director of Taxation to require rounding tax return items to the nearest dollar amount.

This measure would simplify a range of processing duties for the Department of Taxation. Rounding is a fair and overall cost-neutral way to ease administration of the tax laws.

Your Committee has amended this bill to clarify that the rounding process includes both rounding up and rounding down to the nearest whole dollar amount.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3567, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3567, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2762 Ways and Means on H.B. No. 3570

The purpose of this bill is to permit the Department of Taxation to enter into agreements for the collection of general excise taxes with companies engaged in network or multi-level marketing schemes.

Collection agreements with network or multi-level marketing companies with numerous direct sellers will reduce the administrative process for both direct sellers and the administration by requiring the companies to withhold and pay the general excise tax due for direct sellers. The agreements would eliminate the need for direct sellers to file general excise tax returns for business transacted for a company that is a party to an agreement. Direct sellers would still be liable for taxes due as a result of business transacted that is not covered under this type of agreement.

Your Committee agrees with the intent of this bill and has made a technical amendment suggested by the Department of Taxation, as well as other technical, nonsubstantive amendments.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3570, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3570, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 4 (Bunda, Kanno, Tanaka, Liu).

SCRep. 2763 Ways and Means on H.B. No. 3650

The purpose of this bill is to provide the supplemental appropriations for the Judiciary by amending the Judiciary Appropriations Act of 1995 (Act 18, Special Session Laws of Hawaii 1995).

In keeping with the departments of the executive branch, the Judiciary identified reductions of almost \$4,400,000 for fiscal year 1995-1996. Your Committee was encouraged to see the Judiciary voluntarily make these reductions and has applauded its effort to provide greater scrutiny over its expenditures.

For fiscal year 1996-1997, the Judiciary carried over its reductions, and had submitted a request to reallocate approximately \$2,200,000 of its reductions to fund a variety of expenses. The revised budget, while requesting the reallocation of reduced funds, reflected a total that was still \$1,900,000 less than what was previously budgeted for the prior fiscal year.

While your Committee recognizes the efforts of the Judiciary in reducing expenditures to keep in line with the rest of the state government, it feels that funds for new activities and equipment should be limited to maintaining core functions of the Judiciary and the general protection of the public.

With this in mind, your Committee provided funding for the following:

- (1) Increased authorization for the Supreme Court Law Library for reference materials;
- (2) Increased security for the Circuit and Family Courts;
- (3) Necessary repair and maintenance of air-conditioning, facilities, and the video arraignment and court conferencing system; and
- (4) The restoration of funds lost as a result of the early retirement incentive plan (ERIP).

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3650, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as HB. No. 3650, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2764 Ways and Means on H.B. No. 3773

The purpose of this bill, as received by your Committee, is to extend into fiscal year 1996-1997 the appropriation made to the Hawaiian sovereignty elections council under Act 200, Session Laws of Hawaii 1994, as amended by Act 11, Special Session Laws of Hawaii 1995.

Your Committee finds that Act 359, Session Laws of Hawaii 1993, established legislative intent that the indigenous people of Hawaii be provided state support for the efforts by the Native Hawaiians to determine self-governance. Your Committee further finds that ongoing discussions between Native Hawaiian organizations have resulted in proposals for a process which would be inclusive rather than exclusive of the different methods in which self-governance could be determined.

Your Committee believes that consensus methods such as ho'oponopono and 'Aelike should be recognized as part of the process of self-governance being undertaken by the Hawaiian sovereignty elections council. Your Committee further acknowledges that the results from the special elections undertaken by the Hawaiian sovereignty elections council shall not

supersede, conflict, waive, alter, or affect the constitution, charters, statutes, laws, rules, regulations, or ordinances of the State of Hawaii or its political subdivisions, including the respective agencies, departments, board, and commissions.

Thus, upon further consideration, your Committee has amended this measure by:

- (1) Deleting the plebiscite and establishing instead a Native Hawaiian vote;
- (2) Creating a ballot for the Native Hawaiian vote that will request the Native Hawaiian voter to choose either a cultural process to build consensus among Native Hawaiians on the issue of self-governance, or a convention of delegates elected by the Native Hawaiians to propose a Native Hawaiian government, or none of the above;
- (3) Authorizing the Hawaiian sovereignty elections council to plan and conduct a Native Hawaiian vote in 1996;
- (4) Repealing the Hawaiian sovereignty elections council after the Native Hawaiian vote is conducted, and no later than September 2, 1996;
- (5) Repealing all references to a Hawaiian convention; and
- (6) Making nonsubstantive technical amendments for the purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3773, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3773, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 2 (Kanno, Taniguchi).

SCRep. 2765 Ways and Means on H.B. No. 3853

The purpose of this bill is to allow the Director of Finance to issue special purpose revenue bonds that are subject to federal income taxes.

Your Committee finds that Hawaii is the only one of the fifty states that does not issue taxable special purpose revenue bonds. This bill expands state law to provide for the issuance of both taxable as well as tax-exempt special purpose revenue bonds.

Upon further consideration, your Committee has amended this bill by deleting language amending parts IV and V of chapter 39A, Hawaii Revised Statutes, relating to the issuance of special purpose revenue bonds for processing and industrial enterprises, and renumbering the remaining sections. As amended, the bill will allow for the issuance of taxable special purpose revenue bonds only for assisting not-for-profit corporations that provide health care facilities to the general public, assisting manufacturing enterprises, and assisting utilities serving the general public in providing electric energy or gas.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3853, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3853, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2766 Ways and Means on H.B. No. 2800

The purpose of this bill is to amend the General Appropriations Act of 1995 (Act 218, Session Laws of Hawaii 1995) to provide supplemental appropriations to the executive branch of the State for fiscal year 1996-1997.

INTRODUCTION

Only ten years ago, the State's economy enjoyed a prolonged period of unprecedented growth and expansion. Simultaneous booms in the housing, construction, tourism, and business sectors led to several years of sustained and robust economic growth. State expenditures as well as governmental programs expanded at a feverish pace. To many, the strength and growth potential of the State's economy appeared limitless. The passage of time has clearly demonstrated, however, that the foregoing presumption was misguided and far too optimistic.

For much of the decade thus far, Hawaii's economy has been mired in a state of deep stagnation. Your Committee noted during the 1994 session as well as in the 1995 session that the potential for a positive economic turnaround over the short-term looked less than promising. As anticipated, the State experienced severe downward fluctuations in state general fund revenues over the past two fiscal years.

Although the state Council on Revenues recently increased Hawaii's economic forecast for the current fiscal year from 2.2 to 3 per cent, the latest adjustment provides no justification for the State to become complacent over the changes that need to be made. Economic issues, including substantial state spending, the lack of new job opportunities, and the high cost of living, continue to weigh heavily on the minds of local businesses and residents. A national survey recently rated Hawaii's economy as the weakest in the nation; and the State still faces a shortfall of approximately \$200,000,000 for the current fiscal biennium. As your Committee has stated over the past several years, changes must be made to the fiscal

policies of the State to ensure that these policies are consistent with the fiscal realities of the times. Your Committee must again reiterate that the time has come for the State to evaluate its past practices and proceed with the development of strategies to ensure fiscal responsibility in the future. Your Committee has repeatedly advocated strategies such as downsizing and eliminating ineffective programs, consolidating duplicative functions, and phasing out direct service delivery programs as appropriate methods of regaining control over state expenditures.

This supplemental appropriations package was developed by your Committee with the foregoing philosophy in mind. The following sections highlight the important budgetary recommendations supported by your Committee in this bill and other related fiscal measures.

ADDRESSING THE BUDGET SHORTFALL

Short-term Initiatives

The most important issue for the State to address over the short-term is the problem of maintaining a sufficient general fund balance to ensure that the State retains a satisfactory bond rating. To address the State's immediate general fund needs, your Committee adopted three broad strategies which will result in the immediate infusion of substantial sums into the state general fund.

The first mechanism utilized by your Committee to address the immediate cash flow needs of the State involves the transfer of excess special fund and revolving fund balances into the general fund. After performing a thorough analysis of these non-general fund funding sources, your Committee has identified substantial moneys available for transfer that will aid in the restoration of the State's general fund balance to the proper level.

The second method of generating immediate cash resources for the State involves converting the current executive payroll system to an "after the fact" payroll system. Although the concept makes sound fiscal sense and will provide an immediate source of funds to the State, your Committee had serious reservations about the administration's original proposal to make the program operational within a one-year period. Your Committee felt that the proposed one-year conversion period would have imposed serious and unnecessary burdens on the employees of the State. Balancing the interest of employees against the fiscal pressures of the financial plan, your Committee was able to extend the implementation of the payroll lag to two years. Your Committee believes that this program will enable the State to realize immediate savings without unduly affecting the pocketbooks of state employees.

Finally, by imposing a three-month delay in the hiring of certain categories of state employees, your Committee was able to recoup approximately \$3,000,000 in expenditures for the state general fund. To ensure the uninterrupted flow of certain essential services, however, your Committee exempted hiring actions involving the recruitment of employees for shortage categories and instructional positions from the hiring delay.

Long-term Initiatives

While the short-term measures discussed in the previous section will address the State's immediate cash flow needs, it is critical that effective fiscal strategies be developed to address the long-term and innate problems of the state budgetary process. Without a firm commitment to address these issues, the fiscal problems currently plaguing the State will continue to recur in the future.

As noted earlier, an integral part of your Committee's strategy for the reconfiguration of government has been to downsize inefficient, duplicative, or unnecessary programs. S.B. No. 2552 and S.B. No. 3232 demonstrate your Committee's steadfast commitment to resolving the issue of excessive expansion in government. The foregoing measures call for the elimination or consolidation of several major state agencies such as the Department of Business, Economic Development, and Tourism, the Office of State Planning, the Department of Agriculture, and the Department of Human Resources Development. Collectively, these bills represent the first steps toward true structural reform.

An important element in your Committee's strategy to improve the State's system of cash management and regain long-term control over the budget involves the establishment of a mechanism to establish new minimum general fund balances for the legislature and the governor to follow in developing the budget. Unlike the traditional "rainy day fund", which deposits cash in an inaccessible account, the proposed minimum ending balance requirement will enable the State to absorb drops in revenue without serious programmatic impact.

PROTECTING HAWAII'S SOCIAL INFRASTRUCTURE

Education

Supporting education is once again your Committee's highest priority. Through the restoration of proposed budget cuts and providing for the Department of Education's workload needs, your Committee has reaffirmed its commitment to one of the most fundamental of state institutions: the classroom. Your Committee has been deeply troubled by the air of alarm surrounding the issue of funding for public schools. The education of Hawaii's children must be driven by passion, not panic.

Currently, one out of every four dollars received by the state general fund from taxes and other sources is allocated to the Department of Education. When factoring in the education-related costs of other departments, this figure climbs to one out of every three dollars. Given the fact that eighteen other departments, including the University of Hawaii, vie for the remaining two-thirds of the state general funds, the share of the budget devoted to the Department of Education reflects a strong commitment on behalf of both the Legislature and the Governor to education. This is not to say that additional funding for education is not warranted. Your Committee does not subscribe to this view. Rather, your Committee will continue its efforts to find more resources that can be provided directly to the classroom.

Your Committee's first priority was to meet the additional workload increase that the Department of Education faces. During fiscal year 1995, the Department was mandated to reallocate one hundred three non-instructional teaching positions back to the classroom. Of the positions identified by the Legislature, the department successfully reassigned thirty-three positions. While your Committee has questions surrounding the inability of the Department to make a more sincere effort in meeting this legislative mandate, your Committee must concern itself first with ensuring that there are adequate levels of staffing for Hawaii's classrooms. To this end, your Committee has provided positions and funds for seventy-seven new instructional positions. These positions represent just a part of the \$7,000,000 in funding for new teachers and school-level administration, custodians and cafeteria workers, resources for new facilities, and projected increases in utilities costs. With this budget, your Committee has ensured that adequate resources are maintained for the regular instructional program.

Your Committee was also able to restore some moneys lost to budget restrictions and reductions. Most notable was the restoration of funds for school repair and maintenance. The Department had reduced the school's allocation of these funds by twenty-five per cent to meet executive restrictions and another twenty-five per cent had been rebudgeted to meet internal shortfalls. While your Committee has never been able to determine exactly where those funds were rebudgeted, your Committee believes that moneys for the repair and maintenance of schools must be maintained at an adequate level. Your Committee has provided almost \$1,000,000 to ensure that each school receives a full allocation of \$8,000 for these purposes.

Your Committee was also concerned with the reductions to the A+ after-school instructional programs. While fee increases for the program were inevitable, your Committee was able to restore \$1,500,000 in funds for this program. Your Committee feels that quality supervised after-school care is invaluable for Hawaii's working families who have few child care options.

While finding adequate resources for education remains a top priority, your Committee believes that it is imperative that there be accountability for how funds for education are spent. Your Committee finds that the format of the budget for the Department of Education has contributed to the obfuscation of the State's fiscal priorities. In particular, the single program ID EDN 100 (School-based budgeting) has made accountability and program review quite difficult. While the program was established by the Legislature to create a mechanism by which schools could reap the benefits of flexibility and localized decision making, EDN 100 has become home to a number of programs that are not under the control of the schools. There are questions as to whether resources intended for the schools are being diverted for other purposes.

In an effort to develop a budget which more accurately reflects resources provided for the schools, your Committee has begun the process of removing programs that are not under the direct control of the schools and rebudgeting resources under more appropriate programs within the Department. In an effort to further clarify resources for the school-level, your Committee has created a new program ID (EDN 101) called "School-level Personnel".

While the personnel in this new program ID all serve at the school level, it is the Department's state and district offices, and not the schools themselves, that are charged with the expenditure of these funds, and often with the recruitment and selection of these personnel. Your Committee established a new program ID expressly for the purpose of affirming these expenses as truly school-level, while working to ensure that it is the school-level that has ultimate authority over the funds appropriated for school-based budgeting (EDN 100).

Through this budget, your Committee has also addressed the most pressing issues brought forward under the Felix vs. Waihee consent decree with respect to mental health and education services for children. In a recent status conference, the federal monitor overseeing the State's implementation of the system observed that "The practice of education and the provision of services has not significantly changed or improved for class members during the past 18 months."

In reviewing the consent decree budget submitted by the Department of Education, your Committee found priorities of the Department that were not consistent with the statewide implementation plan for the delivery of children's mental health services. Keeping this plan in mind, the following initiatives were approved by your Committee:

- (1) \$2,000,000 in funding and staffing for the most immediate needs has been authorized including thirty early intervention special education positions; at-home instruction; staffing for summer school for the disabled; and
- (2) The transfer of \$3,800,000 to the Department of Health for centralized functions, systemwide coordination of services and centralized accountability.

Higher Education

In light of the cutbacks already imposed upon the institution, your Committee believes the University of Hawaii will be unable to sustain further budgetary reductions during the upcoming fiscal year. Your Committee found the \$14,000,000 in cutbacks proposed by the Governor to be far too severe. Accordingly, the cutbacks were not approved by your Committee.

As an alternative to further cutbacks in its budget, your Committee finds that the University should be granted the flexibility to cope with these difficult times. The Legislature demonstrated its commitment to this approach during the 1995 Regular Session with the enactment of Act 161, Session Laws of Hawaii 1995, which enabled the University to exercise greater flexibility over the use of tuition revenues. In keeping with this philosophy, your Committee fully supported measures that would:

- (1) Assist in the University's effort to move toward becoming a more autonomous entity;
- (2) Establish a mechanism to allow the community colleges to address budgetary shortfalls more effectively;
- (3) Allow the University to assess and collect certain nongeneral funds as a source of additional revenues; and

- (4) Make adjustments to the University's non-general fund expenditure ceiling, providing them with greater flexibility to apply and distribute revenues received from tuitions.

Through H.B. No. 1716, your Committee has also created a mechanism which empowers the University to increase its resources internally by assessing administrative costs to the various non-general funds within the University. Through these assessments, the University should realize some \$9,500,000 for fiscal year 1996-1997. Also included in the bill are mechanisms that would increase the overall levels of funding for the fiscal year 1997-1998 and beyond.

Social Services

Although it is imperative that the problems of the state budget be promptly addressed, your Committee recognizes the need to develop thoughtful initiatives to ensure the safety of all the citizens of the State. Your Committee's strategy to reform and downsize inefficient programs whenever appropriate has been applied to the programs of the State's social services system.

A major strategy advocated by your Committee involves the development of employment and other opportunities for welfare recipients to decrease the amount of time these individuals spend on welfare. Initiatives have been approved to bring about this result while ensuring the protection of the State's most vulnerable population, which includes families, children, and the disabled.

Under the Aid to Families with Dependent Children program, your Committee supported initiatives to:

- (1) Increase the "income and assets disregard" portion of these benefits to encourage recipients to find employment; and
- (2) Develop a new welfare work reform program called the "First to Work Program".

In the area of general assistance, your Committee originally supported a measure to limit the payment of general assistance benefits to eligible recipients to a period of six months. By continuing to explore all available options, however, your Committee was able to identify an additional \$3,800,000 to sustain the program and enable the payment of these benefits for a period of one year.

In the area of assistance to the aged, blind, and disabled, your Committee provided the resources to:

- (1) Protect disabled individuals formerly covered by the general assistance program and potentially eligible for federal assistance; and
- (2) Increase funding to the area by \$2,900,000.

Public Safety

While remaining cognizant of the State's obligation to adequately maintain Hawaii's correctional infrastructure, your Committee has approved various initiatives aimed at making the operations of the State's public safety system more efficient.

As an example, your Committee approved funds to enable the Department of Public Safety to complete the renovations planned for the Olomana Cottage of the state Women's Community Correctional Center by the end of fiscal year 1995-1996 instead of 1996-1997. The funds will expedite the renovations planned for the center. Upon completion of the project, the female inmates will be transferred from their temporary quarters at the Oahu Community Correctional Center to the Women's Community Correctional Center.

Your Committee has also approved various cost-saving measures to enable the funding of the following activities:

- (1) The state KASHBOX program which provides substance abuse treatment services for inmates;
- (2) The transfer of three hundred state correctional system inmates to the State of Texas to alleviate the situation of overcrowding at correctional facilities in Hawaii;
- (3) The addition of twenty beds for the Women's Community Correctional Center to expand the delivery of services such as substance abuse, domestic violence, and sex abuse counseling; vocational assessment and career placement assistance; and parenting skills;
- (4) The expansion of the day reporting center at the Oahu Community Correctional Center which serves to integrate inmates back into the community in a controlled manner;
- (5) The establishment of a spending ceiling of \$200,000 per fiscal year for the Criminal History Information System Revolving Fund; and
- (6) The authorization of a \$1,000,000 spending ceiling for the National Criminal History Improvement Project.

In keeping with its effort to consolidate and ensure the proper alignment of the programs of the State, your Committee approved the transfer of the marine patrol functions of the Department of Public Safety to the Department of Land and Natural Resources. Your Committee also approved the establishment of thirty-six additional officers. Collectively, these initiatives will increase the law enforcement capabilities of the program.

Health

As part of its strategy to downsize programs, increase efficiency, and emulate the management strategies of the private sector, your Committee approved several sweeping initiatives to support and reform the State's health services delivery system. Measures and funding initiatives have been approved by your Committee to:

- (1) Allow the community hospitals system to move toward becoming a public hospital agency;
- (2) Establish six additional positions at Maluhia Hospital to cope with the transfer of developmentally disabled patients from the Waimano Training School and Hospital;
- (3) Provide \$1,500,000 for various developmentally disabled waiver programs to maximize federal reimbursement and facilitate the return of Waimano Training School and Hospital patients back into the community; and
- (4) Down-size and streamline the State Health Planning and Development Agency to bring the operations of this agency into line with a leaner government program.

Your Committee also approved legislation that would pool the funding allocated to the Children and Adolescent Mental Health Division to allow the Department of Health to contract with a managed care entity to provide the array of services necessary to bring the State into compliance with a consent decree to rectify the problems of the program. This action was necessary to reform the State's current delivery system, which by all accounts, is beyond repair. The new system will cause minimal disruption to services and will demonstrate the State's commitment toward the development of long-term solutions.

In reviewing the operations of other state agencies, your Committee made every effort to protect and maintain Hawaii's social safety net. For example, for the Office of Veterans Services, your Committee was able to restore five positions and approximately \$200,000 in appropriations to the office.

Your Committee has also continued its support of programs and initiatives to maximize child support enforcement by protecting programs from further personnel reductions and approving funds for the enhancement of the automated child enforcement system, which promotes increased efficiency and enhances collection efforts.

In addressing the problems brought about by legal challenges and higher than anticipated enrollment rates, your Committee supported several initiatives to modify the State's Health QUEST Program. Initiatives have been approved to enable the establishment of the QUEST-NET Program; and allow the Department of Human Services to prepare for expected federal reforms in the medicaid program.

CONSOLIDATING AND REALIGNING GOVERNMENT

Your Committee has consistently advocated the implementation of innovative strategies to make the programs and operations of the State more efficient. Two proven methods of ensuring the maximum use of available resources and improving the efficiency of departmental operations include the realignment or the consolidation of duplicative departmental programs. Your Committee has employed this approach to streamline and improve the operations of various agencies of the State, most notably within the Department of Budget and Finance; the Department of Business, Economic Development, and Tourism; the Office of State Planning; and the Department of Land and Natural Resources.

Department of Budget and Finance

Your Committee approved an initiative to complete the transfer of the Information and Communication Services Division from the Department of Budget and Finance to the Department of Accounting and General Services. Your Committee finds that the Department of Accounting and General Services represents the most appropriate agency to administer the functions of the division. With the division placed under the Department of Accounting and General Services, the technological development and implementation of statewide standards and procedures will be well coordinated with other programs of the Department.

To maximize the use of available resources, your Committee has also advocated the downsizing and consolidation of functions within the Budget Planning and Management Division. The streamlined Budget Planning and Management Division will absorb the functions of the Management Services Branch and the Financial Research, Planning, and Policy Branch.

Department of Business, Economic Development, and Tourism

Your Committee has dramatically changed the face of the Department of Business, Economic Development, and Tourism. In the Department, your Committee has incorporated downsizing, consolidation, and cost-shifting to maximize expenditures and maintain key services.

Through downsizing, functions formerly carried out by the Business Action Center with regards to facilitating the permitting process, will be carried out by the Department of Commerce and Consumer Affairs. Other programs such as the Clean Hawaii Center, have been scaled back and transferred to the Office of the Director, achieving program efficiencies and allowing the Center to continue its efforts to market recycled products throughout the State.

Through consolidation, the State Tourism Office has been eliminated, and full funding has been provided to the Hawaii Visitors Bureau. By moving the contract management to the Office of the Governor, your Committee feels that this demonstrates the Senate's strong commitment to one of our most vital industries.

Finally, through cost-shifting, your Committee has found substantial savings within the Department of Business, Economic Development, and Tourism. Through making the Department's loan programs self-sufficient, and through funding the Hawaii Visitors Bureau with revenues from the transient accommodations tax, your Committee has realized over \$26,000,000 in savings to the general fund.

Your Committee has also recognized the importance of continuing Hawaii's efforts at becoming an industry leader in high-technology. As a demonstration of the Senate's commitment to this end, your Committee has created a new program ID, BED 143, to house Hawaii's high-tech programs.

Other Agencies of the State

To ensure proper alignment in the budget process, the budget areas of the Office of State Planning and the Coastal Zone Management Program have been integrated. To bring about additional improvements to these operations, the Office of State Planning has been transferred from the Office of the Governor to the Department of Commerce and Consumer Affairs. The transfer is in line with section 6 of article V of the Constitution of the State of Hawaii, which requires the placement of state agencies within a principal department of the executive branch.

To streamline the Department of Land and Natural Resources, the Office of Conservation and Environmental Affairs and the water and land development functions of the Division of Water Resources Management will be incorporated into the Division of Land Management. Another modification to the Department involves the transfer of the Hunter Education Program to the office of the Chairperson of the Board of Land and Natural Resources.

To improve the efficiency of agricultural research, your Committee has advocated the abolition of the Governor's Agriculture Coordinating Committee and the transfer of its research funds to the Agribusiness Development Corporation under the Department of Agriculture. By way of this modification, the program will operate in the same manner as a nonprofit corporation in the private sector. This action also addresses the concern with respect to section 6 of article V of the Constitution of the State of Hawaii, which mandates the placement of state agencies within a principal department of the executive branch.

CONCLUSION

The choices made by your Committee in the course of developing this budget have been difficult, but the economic realities of the present require the implementation of decisive and effective actions. Your Committee looks forward to meeting with the House Committee on Finance to finalize the details of this supplemental budget.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2800, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2800, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2767 Ways and Means on S.C.R. No. 16

The purpose of this Concurrent Resolution is to authorize the Department of Land and Natural Resources to lease certain submerged lands at Manele Bay to Lanai Company, Inc., for marina purposes.

Your Committee finds that the marina facilities at Manele Small Boat Harbor, which is on the southern coast of the island of Lanai, is in dire need of improvements. For example, there are no lights, telephones, or improved water systems at the harbor. Your Committee finds that the lack of these facilities could lead to hazardous conditions in emergency situations. In this regard, the construction of a safe and functional harbor area at the Manele Small Boat Harbor would be of great benefit to the State.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 16, S.D. 1, and recommends its adoption.

Signed by the Chairman on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 4 (Bunda, Kanno, Tanaka, Liu).

SCRep. 2768 Ecology and Environmental Protection on S.R. No. 193

The purpose of this Resolution is to urge the Department of Health to develop goals and objectives which advance the State's environmental policy by:

- (1) Making the coastal waters safe and healthy for people and marine plants and animals;
- (2) Preserving, restoring, and protecting the quality of waters of the State's streams, ponds, wetlands, estuaries, reservoirs, and artificial inland water bodies for fish, wildlife, recreation, aesthetic enjoyment, and human use;
- (3) Protecting groundwater resources from contamination;
- (4) Protecting the land from future contamination and rehabilitating contaminated lands relative to the risk associated with its contamination; and
- (5) Protecting air quality.

This measure also requests the Director of Health to report on its progress to the Legislature twenty days before the convening of the Regular Sessions of 1997, 1998, 1999, and 2000.

Your Committee finds that the environmental laws of this State are highly technical, complex, and subject to varying interpretations. Your Committee believes that enforcement of the environmental laws could be greatly enhanced by a uniform implementation policy.

As affirmed by the record of votes of the members of your Committee on Ecology and Environmental Protection that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 193 and recommends its adoption.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Chumbley, Levin).

SCRep. 2769 Ecology and Environmental Protection on S.C.R. No. 235

The purpose of this Concurrent Resolution is to urge the Department of Health to develop goals and objectives which advance the State's environmental policy by:

- (1) Making the coastal waters safe and healthy for people and marine plants and animals;
- (2) Preserving, restoring, and protecting the quality of waters of the State's streams, ponds, wetlands, estuaries, reservoirs, and artificial inland water bodies for fish, wildlife, recreation, aesthetic enjoyment, and human use;
- (3) Protecting groundwater resources from contamination;
- (4) Protecting the land from future contamination and rehabilitating contaminated lands relative to the risk associated with its contamination; and
- (5) Protecting air quality.

This measure also requests the Director of Health to report on its progress to the Legislature twenty days before the convening of the Regular Sessions of 1997, 1998, 1999, and 2000.

Your Committee finds that the environmental laws of this State are highly technical, complex, and subject to varying interpretations. Your Committee believes that enforcement of the environmental laws could be greatly enhanced by a uniform implementation policy.

As affirmed by the record of votes of the members of your Committee on Ecology and Environmental Protection that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 235 and recommends its adoption.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Chumbley, Levin).

SCRep. 2770 (Joint) Communications and Public Utilities and Ways and Means on S.C.R. No. 286

The purpose of this Concurrent Resolution is to request the Public Utilities Commission, in consultation with relevant state agencies and other interested parties, to study the issue of overheading versus undergrounding utility lines.

Your Committees find that there may be significant adverse impacts associated with the construction, maintenance, and utilization of utility lines overhead as compared with underground placement of these lines. Not only may overhead facilities pose health and safety risks, but they also detract from the natural beauty of our islands.

Your Committees believe that it is important to conduct a comprehensive study of underground versus overhead utility facilities, including a review of the cost differentials associated therewith, before deciding on the most appropriate policy course for the State.

Your Committees have amended this measure by:

- (1) Requesting the Auditor, rather than the Public Utilities Commission, to study the issue of overheading versus undergrounding utility lines;
- (2) Including the Public Utilities Commission and the Consumer Advocate in the list of agencies and interested parties with which the Auditor is required to consult in conducting the study;
- (3) Providing that the Auditor shall include in its study an examination of other states' requirements and programs regarding the undergrounding of utility facilities;
- (4) Providing that the Auditor may obtain consultative assistance to conduct the study; and
- (5) Making several technical, nonsubstantive amendments for purposes of style and clarity.

As affirmed by the records of votes of the members of your Committees on Communications and Public Utilities and Ways and Means that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 286, as amended herein, and recommend its adoption in the form attached hereto as S.C.R. No. 286, S.D. 1.

Signed by the Chairmen on behalf of the Committees.

Ayes, 8. Noes, none. Excused, 6 (Chumbley, Fernandes Salling, Ihara, Ikeda, Kanno, Solomon).

SCRep. 2771 Economic Development on S.C.R. No. 258

The purpose of this Concurrent Resolution is to request the Department of Business, Economic Development, and Tourism (DBEDT) to develop and implement, in consultation with other appropriate visitor industry and scientific research agencies and organizations, a techno-tourism policy aimed at making Hawaii the Asia-Pacific region's preeminent center for international science and technology conferences.

Your Committee finds that global recognition of Hawaii as the prime science and technology meeting place for the Asia-Pacific region would provide a major contribution to the State's efforts for greater economic diversification into the high technology research and development industry.

Although Hawaii already attracts many important science and technology conferences each year, the State has not yet developed a comprehensive "techno-tourism" policy to aggressively promote these types of conferences in connection with the broad range of sophisticated cultural attractions available to potential conference participants.

As supported by DBEDT and the High Technology Development Corporation, your Committee believes that it would be valuable in developing the most appropriate policy for the State to conduct an initial inventory of the number of science and technology conferences in Hawaii and their potential for revenue generation.

Your Committee has therefore amended this measure by:

- (1) Requesting DBEDT, in conjunction with the High Technology Development Corporation, to inventory the number of science and technology conferences in Hawaii and their potential for revenue generation, and to include the results of the inventory in its report to the Legislature prior to the 1997 Regular Session;
- (2) Deleting from the list of agency heads to receive a certified copy of this measure, the Project Manager of the Manoa Innovation Center and the Director of the Maui Research and Technology Center; and
- (3) Making several technical, nonsubstantive changes for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Economic Development that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 258, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 258, S.D. 1.

Signed by the Chairman on behalf of the Committee.

Ayes, 3. Noes, none. Excused, 2 (Matsuura, Tam).

SCRep. 2772 Health on S.R. No. 80

The purpose of this Resolution is to request the Department of Accounting and General Services to clean all air-conditioning filters in state buildings on a regular basis.

Your Committee finds that the United States Environmental Protection Agency has identified indoor air pollution as one of the most serious health threats facing the public. Buildings without natural ventilation often expose their occupants to concentrated levels of chemicals and contaminants emitted by synthetic as well as organic sources. Exposure to these substances may result in symptoms ranging from flu-like illnesses to other more serious problems.

According to the Department of Accounting and General Services, the actions requested in this Resolution are already being implemented. Therefore, your Committee has amended this measure by amending its title and including several additional paragraphs that recognize the efforts of the Department and request a report on the resources needed to sustain the Department's ongoing maintenance program.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 80, as amended herein, and recommends that it be referred to the Committee on Ways and Means, in the form attached hereto as S.R. No. 80, S.D. 1.

Signed by the Chairman on behalf of the Committee.

Ayes, 3. Noes, none. Excused, 1 (Kawamoto).

SCRep. 2773 Health on S.R. No. 185

The purpose of this Resolution is to request the leaders of Hawaii's youth sports leagues to adopt and implement policies to discourage tobacco and alcohol use by coaches, parents, and family members during league practices and games; and to endorse and support voluntary efforts to promote participation by youths in athletic activities, and to develop and maintain active, healthy lifestyles.

Your Committee concurs with the conclusion of the studies conducted by the Center of Addiction and Substance Abuse at Columbia University stating that adult and adolescent abuse of substances -- cigarettes, alcohol, marijuana, cocaine, heroin, and other illegal drugs -- is the most important problem confronting adolescents today, well ahead of the number

two problem, crime and violence. Therefore, your Committee believes that the scope of activities covered by this measure should not be limited to practices and games.

Your Committee has amended this measure by expanding the scope of activities covered by it to include any occasion when youths are present, and by making other technical, nonsubstantive changes for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee 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 the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kawamoto).

SCRep. 2774 (Joint) Health and Hawaiian Affairs on S.C.R. No. 190

The purpose of this Concurrent Resolution is to request the Department of Health, the Department of Human Services, the Department of Hawaiian Home Lands, the Office of Hawaiian Affairs, and the University of Hawai'i each, with the inclusion of information collected and offered by other groups such as Papa Ola Lokahi, E Ola Mau, and Alu Like, to report how they are supporting and collaborating with the Native Hawaiian Health Care Systems to improve the health status of Hawaiians in the State of Hawai'i; and to report their progress to the Legislature twenty days prior to the convening of the Regular Session of 1997.

Your Committees adopted the recommendation of the Director of Health to address this measure to Papa Ola Lokahi as the appropriate coordinating organization in the collaborative effort.

Your Committees amended this measure and its title by substituting Papa Ola Lokahi in place of the Department of Health as the lead organization responsible for reporting on the collaborative effort of all the agencies and organizations participating with the Native Hawaiian Health Care Systems; and by requesting a report only from Papa Ola Lokahi instead of all of the participating state agencies. Your Committees also made technical, nonsubstantive changes for purposes of style, conformity, and clarity.

As affirmed by the records of votes of the members of your Committees on Health and Hawaiian Affairs that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 190, as amended herein, and recommend its adoption in the form attached hereto as S.C.R. No. 190, S.D. 1.

Signed by the Chairmen on behalf of the Committees.
Ayes, 5. Noes, none. Excused, 2 (Grauly, Kawamoto).

SCRep. 2775 (Joint) Health and Hawaiian Affairs on S.R. No. 151

The purpose of this Resolution is to affirm the vital role that the Governor's Pacific Health Promotion and Development Center plays in improving Pacific Islander and Hawaiian health and to request the Governor to continue supporting the Center's activities.

Your Committees believe that the Governor's Pacific Health Promotion and Development Center serves as a vital link between Hawaii's health professionals and those in other Pacific Islands; the Center provides an essential government-to-government link with the federal government, more specifically, the Center for Disease Control, the National Institutes of Health, the Health Resources Administration, and other agencies within the United States Department of Health and Human Services; and the Center provides valuable assistance to the health agencies of other Pacific Islands, the Native Hawaiian Health Care Systems, and other agencies working for Pacific Islander and Hawaiian health status improvement.

As affirmed by the records of votes of the members of your Committees on Health and Hawaiian Affairs that are attached to this report, your Committees concur with the intent and purpose of S.R. No. 151 and recommend its adoption.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Grauly, Kawamoto).

SCRep. 2776 (Joint) Health and Hawaiian Affairs on S.C.R. No. 191

The purpose of this Concurrent Resolution is to affirm the vital role that the Governor's Pacific Health Promotion and Development Center plays in improving Pacific Islander and Hawaiian health and to request the Governor to continue supporting the Center's activities.

Your Committees believe that the Governor's Pacific Health Promotion and Development Center serves as a vital link between Hawaii's health professionals and those in other Pacific Islands; the Center provides an essential government-to-government link with the federal government, more specifically, the Center for Disease Control, the National Institutes of Health, the Health Resources Administration, and other agencies within the United States Department of Health and Human Services; and the Center provides valuable assistance to the health agencies of other Pacific Islands, the Native Hawaiian Health Care Systems, and other agencies working for Pacific Islander and Hawaiian health status improvement.

As affirmed by the records of votes of the members of your Committees on Health and Hawaiian Affairs that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 191 and recommend its adoption.

Signed by the Chairmen on behalf of the Committees.
Ayes, 5. Noes, none. Excused, 2 (Grauly, Kawamoto).

SCRep. 2777 Health on S.C.R. No. 227

The purpose of this Concurrent Resolution is to request the leaders of Hawaii's youth sports leagues to adopt and implement policies to discourage tobacco and alcohol use by coaches, parents, and family members during league practices and games; and to endorse and support voluntary efforts to promote participation by youths in athletic activities, and to develop and maintain active, healthy lifestyles.

Your Committee concurs with the conclusion of the studies conducted by the Center of Addiction and Substance Abuse at Columbia University stating that adult and adolescent abuse of substances -- cigarettes, alcohol, marijuana, cocaine, heroin, and other illegal drugs -- is the most important problem confronting adolescents today, well ahead of the number two problem, crime and violence. Therefore, your Committee believes that the scope of activities covered by this measure should not be limited to practices and games.

Your Committee has amended this measure by expanding the scope of activities covered by it to include any occasion when youths are present, and by making other technical, nonsubstantive changes for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 227, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 227, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kawamoto).

SCRep. 2778 Judiciary on S.R. No. 184

The purpose of this resolution is to request family court judges to consider the threat of imminent physical harm in granting temporary restraining orders in domestic violence cases.

Domestic violence is a large scale problem and a concern to the whole community. The Legislature realized the importance of these types of restraining orders back in 1982, when it enacted chapter 586, Hawaii Revised Statutes, relating to domestic abuse protection orders. Your Committee finds that the current statutory language permits a temporary restraining order to be granted based on threats of imminent physical abuse, yet family court judges are not consistent in considering this factor in granting temporary restraining orders. Your Committee finds that the reminder contained in this resolution will help ensure an even-handed approach to domestic violence and prevent more incidents.

Your Committee received testimony in support of this resolution from the Domestic Violence Clearinghouse and Legal Hotline and from the Judiciary.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 184 and recommends its adoption.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (McCartney, Anderson).

SCRep. 2779 Judiciary on S.C.R. No. 226

The purpose of this concurrent resolution is to request family court judges to consider the threat of imminent physical harm in granting temporary restraining orders in domestic violence cases.

Domestic violence is a large scale problem and a concern to the whole community. The Legislature realized the importance of these types of restraining orders back in 1982, when it enacted chapter 586, Hawaii Revised Statutes, relating to domestic abuse protection orders. Your Committee finds that the current statutory language permits a temporary restraining order to be granted based on threats of imminent physical abuse, yet family court judges are not consistent in considering this factor in granting temporary restraining orders. Your Committee finds that the reminder contained in this concurrent resolution will help ensure an even-handed approach to domestic violence and prevent more incidents.

Your Committee received testimony in support of this concurrent resolution from the Domestic Violence Clearinghouse and Legal Hotline and from the Judiciary.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 226 and recommends its adoption.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (McCartney, Anderson).

SCRep. 2780 Judiciary on S.R. No. 230

The purpose of this resolution is to request the Senate Committee on Judiciary to investigate the feasibility of locating state correctional facilities on surplus military facilities or on Midway Island.

Your Committee finds that Hawaii's prisons are overcrowded and that the State has entered into a consent decree to set population limits on existing state prison facilities. The cost of constructing additional prison facilities does not appear to be an option at this time. The State has experimented with various methods to meet the prison population guidelines,

such as sending hundreds of prisoners to Texas prisons to relieve the overcrowding situation. Your Committee finds that an inquiry into the availability of surplus military facilities may provide another avenue to address this problem.

Your Committee received supporting testimony from the Department of Public Safety and the Corrections Population Management Commission.

Your Committee has amended this resolution by making a variety of technical nonsubstantive changes.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 230, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 230, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Tam, Anderson).

SCRep. 2781 Judiciary on S.C.R. No. 277

The purpose of this concurrent resolution is to request the Judiciary to review its procedures for appointing guardians.

The concurrent resolution further requests the Judiciary to consider the establishment of an alternate administrative procedure for appointing temporary guardians for the purpose of making health care decisions for incapacitated persons who have not established a valid power of attorney for health care decisions, living will, or guardianship prior to their incapacity, and who are no longer able to make health care decisions.

While your Committee agrees with the intent of this concurrent resolution, your Committee finds that the Legislative Reference Bureau, rather than the Judiciary, should review the Judiciary's procedures for appointing guardians. In addition, the Bureau should seek input from the Judiciary and other persons who are knowledgeable about guardianship, review practices in other states on these issues, and report findings and recommendations to the Legislature prior to the 1997 Regular Session.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 277, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 277, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Chumbley, McCartney, Anderson).

SCRep. 2782 (Joint) Hawaiian Affairs and Economic Development on S.C.R. No. 260

The purpose of this concurrent resolution is to request the Governor to convene a delegation of members of the State administration to meet with Hawaiian sovereignty leaders to discuss the establishment of a proposed Hawaiian nation trading region to provide offshore financial services similar to those offered in the Cayman Islands and Bermuda.

Your Committees find that this concurrent resolution puts forth a new vision, a historic opportunity to create a Hawaiian nation trading region, a win-win proposition for the State of Hawaii and the Hawaiian sovereignty movement. This opportunity would:

- (1) Broaden Hawaii's role in the global marketplace, particularly the Asian-Pacific market;
- (2) Provide a vehicle for the Hawaiian sovereignty groups to potentially resolve their land claims; and
- (3) Serve as a foundation for creating an attractive economic development area to benefit the nation of Hawaii, the Hawaiian people, and the State.

Your Committees believe that economic development and Hawaiian sovereignty can find a mutually beneficial place in Hawaii's future and this concurrent resolution would provide the first crucial step in that direction. These economic activities would be similar to those adopted by the Cayman Islands and Bermuda, which have experienced phenomenal economic growth due to their flexible offshore financial services environments.

Your Committees have amended this concurrent resolution to:

- (1) Delete requesting the Governor to convene a delegation; and
- (2) Substitute a request to the President of the Senate and the Speaker of the House of the Hawaii State Legislature to coordinate efforts and facilitate dialogue between the State administration and Hawaiian sovereignty leaders on establishing a Hawaiian Nation Trading Region, including holding interim public hearings and making recommendations for legislation for the 1997 legislature.

As affirmed by the records of votes of the members of your Committees on Hawaiian Affairs and Economic Development that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 260, as amended herein, and recommend its adoption in the form attached hereto as S.C.R. No. 260, S.D. 1.

Signed by the Chairmen on behalf of the Committees.
Ayes, 6. Noes, none. Excused, 3 (Ige, McCartney, Tam).

SCRep. 2783 Health on S.R. No. 187

The purpose of this Resolution is to request the Department of Health to institute through its Safe Drinking Water Branch a comprehensive public education program aimed at informing Hawaii's residents about drinking water quality in the State and measures that can be taken to ensure the safety of drinking water flowing from the taps of individual residences.

Your Committee finds that questions have been raised as to whether drinking water data received last year adequately reported information for determining the safety of drinking water. The report did not:

- (1) Supply well numbers that would indicate the location of the wells and the contents of the neighboring wells;
- (2) Indicate the findings by each individual lab;
- (3) Specify which Environmental Protection Agency test sensitivity the city and State actually used; nor
- (4) List the specific toxins tested for.

Your Committee has amended the Resolution to ask the Department of Health whether it can return to more sensitive water testing in the lowest possible parts per trillion.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 187, as amended herein, and recommends that it be referred to the Committee on Ways and Means in the form attached hereto as S.R. No. 187, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kawamoto).

SCRep. 2784 Executive and Judicial Appointments on Gov. Msg. Nos. 216, 217, 218, 219, 220, 221, 222 and 223

Recommending that the Senate advise and consent to the nominations of the following:

IRA DAVID ZUNIN, M.D., MIKE M. HASHIMOTO, Ph.D., and MICHAEL S. HOWDEN, to the Board of Acupuncture, terms to expire June 30, 2000 (Gov. Msg. No. 216);

GARY LEE to the State Board of Barbers, term to expire June 20, 1997, (Gov. Msg. No. 217);

LANCE M. MARUGAME and NANCY A. TOYAMA, to the State Board of Barbers, terms to expire June 30, 2000 (Gov. Msg. No. 217);

GEORGE M. AMIMOTO, to the State Boxing Commission of Hawaii, term to expire June 30, 2000 (Gov. Msg. No. 218);

GINA MEDRANO to the Governor's Advisory Council for Children and Youth, term to expire June 30, 1997 (Gov. Msg. No. 219);

ANGELA CROMWELL THOMAS, RUTH FUKUNAGA and RICHARD L. HOKE, JR., to the Governor's Advisory Council for Children and Youth, terms to expire June 30, 2000 (Gov. Msg. No. 219);

LINDA D. CHINN and ALEJANDRO LOMOSAD, to the Civil Defense Advisory Council, terms to expire June 30, 2000 (Gov. Msg. No. 220);

WALLACE F. CHONG, JR., D.D.S. and ROGER H. YOKOYAMA, D.D.S., to the Board of Dental Examiners, terms to expire June 30, 2000 (Gov. Msg. No. 221);

GERALD M. YAMAMOTO, to the Elevator Mechanics Licensing Board, term to expire June 30, 2000 (Gov. Msg. No. 222);

RONALD P. WEIDENBACH, to the Hawaii Aquaculture Advisory Council, term to expire June 30, 1997 (Gov. Msg. No. 223); and

MARY BROOKS and BO KJAER-OLSEN, to the Hawaii Aquaculture Advisory Council, terms to expire June 30, 2000 (Gov. Msg. No. 223),

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Fernandes Salling, Graulty, Holt).

SCRep. 2785 Executive and Judicial Appointments on Gov. Msg. Nos. 226, 227, 228, 229, 230, 231, 232 and 233

Recommending that the Senate advise and consent to the nominations of the following:

JUNE M. UYEHARA-ISONO and MARLIN SPIKE WERNER, Ph.D., to the Board of Hearing Aid Dealers and Fitters, terms to expire June 30, 2000 (Gov. Msg. No. 226);

STEPHEN M. OISHI, M.D. and WILLIAM EDWARD WATTS II, to the Medical Advisory Board, terms to expire June 30, 2000 (Gov. Msg. No. 227);

PATRICIA LANOIE BLANCHETTE, M.D., to the Board of Medical Examiners, term to expire June 30, 2000 (Gov. Msg. No. 228);

MILTON H. KAKAIO, MORRIE STOEBNER and MICHAEL E. REIERSON, to the Motor Vehicle Industry Licensing Board, terms to expire June 30, 2000 (Gov. Msg. No. 229);

GARY Y. GIBO and YOSHIAKI UEHIRA to the Motor Vehicle Repair Industry Board, terms to expire June 30, 2000 (Gov. Msg. No. 230);

SUSAN M. NAKASONE, O.D., to the Board of Examiners in Optometry, term to expire June 30, 2000 (Gov. Msg. No. 231);

ROBERT MICHAEL MCLEAN, Ph.D., to the Advisory Committee on Pesticides, term to expire June 30, 2000 (Gov. Msg. No. 232); and

ANTHONY J. MARSELLA, Ph.D., to the Board of Psychology, term to expire June 30, 2000 (Gov. Msg. No. 233).

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Fernandes Salling, Graulty, Holt).

SCRep. 2786 Executive and Judicial Appointments on Gov. Msg. Nos. 235, 236, 237, 238 and 239

Recommending that the Senate advise and consent to the nominations of the following:

DAVID W. RAE, RICHARD M. KIBE and LESTER T. FUSHIKOSHI to the Commission on Transportation, terms to expire June 30, 2000 (Gov. Msg. No. 235);

ROBERT S. TOYOFUKU and HIROSHI SAKAI, to the Commission to Promote Uniform Legislation, terms to expire June 30, 2000 (Gov. Msg. No. 236);

DANIA S. KRAWEC, to the Advisory Board on Veterans Services, term to expire June 30, 2000 (Gov. Msg. No. 237);

SUELLEN J. KOTAKE, D.V.M., to the Board of Veterinary Examiners, term to expire June 30, 2000 (Gov. Msg. No. 238);

ROGER BABCOCK, Ph.D., to the Board of Certification of Operating Personnel in Wastewater Treatment Plants, term to expire June 30, 1999 (Gov. Msg. No. 239); and

ROBERT O. VALENTINE and ALLEN L. PERRY, JR., to the Board of Certification of Operating Personnel in Wastewater Treatment Plants, terms to expire June 30, 2000 (Gov. Msg. No. 239).

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Fernandes Salling, Graulty, Holt).

SCRep. 2787 Communications and Public Utilities on S.R. No. 183

The purpose of this Resolution is to request Hawaii Electric Industries, Inc., and Hawaiian Electric Company to provide a written report to the Legislature detailing the steps they have taken to implement the recommendations set forth in the January 1995, Dennis Thomas and Associates report to the Public Utilities Commission entitled "Review of the Relationship between Hawaiian Electric Industries and Hawaiian Electric Company (Thomas Report).

Your Committee finds that the Thomas Report is the result of a legislative request to the Public Utilities Commission to retain an independent consultant to review the public impact of Hawaiian Electric Company's restructuring and diversified operations (House Concurrent Resolution No. 46, Seventeenth Legislature, 1993).

The Thomas Report sets forth certain recommended actions to be taken by the Public Utilities Commission and by Hawaiian Electric Company and Hawaiian Electric Industries, Inc. to protect the public's interest in receiving the highest quality of electric services at affordable rates.

Your Committee has amended this measure by:

- (1) Revising the title and the body to request the Public Utilities Commission, rather than Hawaiian Electric Industries, Inc. and Hawaiian Electric Company, to provide the report to the Legislature, and by making the report due no later than July 31, 1996;
- (2) Adding a reference to the fact that the Consumer Advocate and the Department of Defense submitted separate comments to the Public Utilities Commission, detailing areas of concern with respect to the Thomas Report's analysis and evaluation of Hawaiian Electric Industries, Inc.'s diversification;
- (3) Requiring the Public Utilities Commission to consider the comments of the Consumer Advocate and the Department of Defense in preparing its report to the Legislature; and
- (4) Making several technical, nonsubstantive changes for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Communications and Public Utilities that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 183, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 183, S.D. 1.

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Ihara, Kanno, Liu).

SCRep. 2788 Communications and Public Utilities on S.C.R. No. 225

The purpose of this Concurrent Resolution is to request Hawaii Electric Industries, Inc., and Hawaiian Electric Company to provide a written report to the Legislature detailing the steps they have taken to implement the recommendations set forth in the January 1995, Dennis Thomas and Associates report to the Public Utilities Commission entitled "Review of the Relationship between Hawaiian Electric Industries and Hawaiian Electric Company (Thomas Report).

Your Committee finds that the Thomas Report is the result of a legislative request to the Public Utilities Commission to retain an independent consultant to review the public impact of Hawaiian Electric Company's restructuring and diversified operations (House Concurrent Resolution No. 46, Seventeenth Legislature, 1993).

The Thomas Report sets forth certain recommended actions to be taken by the Public Utilities Commission and by Hawaiian Electric Company and Hawaiian Electric Industries, Inc. to protect the public's interest in receiving the highest quality of electric services at affordable rates.

Your Committee has amended this measure by:

- (1) Revising the title and the body to request the Public Utilities Commission, rather than Hawaiian Electric Industries, Inc. and Hawaiian Electric Company, to provide the report to the Legislature, and by making the report due no later than July 31, 1996;
- (2) Adding a reference to the fact that the Consumer Advocate and the Department of Defense submitted separate comments to the Public Utilities Commission, detailing areas of concern with respect to the Thomas Report's analysis and evaluation of Hawaiian Electric Industries, Inc.'s diversification;
- (3) Requiring the Public Utilities Commission to consider the comments of the Consumer Advocate and the Department of Defense in preparing its report to the Legislature; and
- (4) Making several technical, nonsubstantive changes for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Communications and Public Utilities that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 225, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 225, S.D. 1.

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Ihara, Kanno, Liu).

SCRep. 2789 (Joint) Communications and Public Utilities and Economic Development on S.R. No. 188

The purpose of this Resolution is to request the Public Utilities Commission to include renewable energy portfolio standards within the electric utility integrated resources planning requirements regulated by the Commission.

Your Committees find that despite the State's clear policy preference for the development of cost-effective renewable energy resources and investment in energy efficiency, energy-producing utilities in Hawaii have to date included minimal non-fossil fuel additions in their integrated resource plans.

Your Committees note that many other states, including Arizona, California, Florida, Iowa, Michigan, Minnesota, and New York, have included renewable energy systems in their utility plans through the establishment of innovative "portfolio standards", whereby utilities are required to include alternative energy systems in their resource plans.

Your Committees believe that as the nation's most oil-dependent state, Hawaii would benefit greatly by reviewing these and other state approaches and by requiring Hawaii's utilities to adopt similar renewable energy portfolio standards as part of their integrated resource plans.

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

As affirmed by the records of votes of the members of your Committees on Communications and Public Utilities and Economic Development that are attached to this report, your Committees concur with the intent and purpose of S.R. No. 188, as amended herein, and recommend its adoption in the form attached hereto as S.R. No. 188, S.D. 1.

Signed by the Chairmen on behalf of the Committees.

Ayes, 7. Noes, none. Excused, 4 (Kanno, Levin, Tam, Liu).

SCRep. 2790 (Joint) Communications and Public Utilities and Economic Development on S.C.R. No. 230

The purpose of this Concurrent Resolution is to request the Public Utilities Commission to include renewable energy portfolio standards within the electric utility integrated resources planning requirements regulated by the Commission.

Your Committees find that despite the State's clear policy preference for the development of cost-effective renewable energy resources and investment in energy efficiency, energy-producing utilities in Hawaii have to date included minimal non-fossil fuel additions in their integrated resource plans.

Your Committees note that many other states, including Arizona, California, Florida, Iowa, Michigan, Minnesota, and New York, have included renewable energy systems in their utility plans through the establishment of innovative "portfolio standards", whereby utilities are required to include alternative energy systems in their resource plans.

Your Committees believe that as the nation's most oil-dependent state, Hawaii would benefit greatly by reviewing these and other state approaches and by requiring Hawaii's utilities to adopt similar renewable energy portfolio standards as part of their integrated resource plans.

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

As affirmed by the records of votes of the members of your Committees on Communications and Public Utilities and Economic Development that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 230, as amended herein, and recommend its adoption in the form attached hereto as S.C.R. No. 230, S.D. 1.

Signed by the Chairmen on behalf of the Committees.

Ayes, 7. Noes, none. Excused, 4 (Kanno, Levin, Tam, Liu).

SCRep. 2791 Judiciary on S.R. No. 54

The purpose of this resolution is to request that condominium associations arbitrate their disputes and that the Legislative Reference Bureau study issues relating to non-binding arbitration of these disputes.

The resolution also requests the Real Estate Commission to adopt rules to warn the parties that these types of arbitration are subject to a trial de novo, and defining that term.

Your Committee finds that, while arbitration can be a useful tool in resolving disputes, its efficacy is lessened if the arbitration is not binding. Your Committee notes that a winning party under arbitration can end up with nothing but debts if the losing party decides to seek a trial de novo, as none of the arbitration proceedings is taken into account in the new trial. This is tremendously frustrating for the party who won at the arbitration level, as the victory becomes meaningless and the whole procedure becomes a waste of time and money.

Your Committee has amended the resolution by specifying in more detail the issues that the Legislative Reference Bureau is requested to study, and by adding individual apartment owners to the parties encouraged to arbitrate disputes, to conform to the title.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 54, S.D. 1, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 54, S.D. 2.

Signed by the Chairman on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 2 (Matsuura, McCartney).

SCRep. 2792 Judiciary on S.C.R. No. 77

The purpose of this concurrent resolution is to request that condominium associations arbitrate their disputes and that the Legislative Reference Bureau study issues relating to non-binding arbitration of these disputes.

The concurrent resolution also requests the Real Estate Commission to adopt rules to warn the parties that these types of arbitration are subject to a trial de novo, and defining that term.

Your Committee finds that, while arbitration can be a useful tool in resolving disputes, its efficacy is lessened if the arbitration is not binding. Your Committee notes that a winning party under arbitration can end up with nothing but debts if the losing party decides to seek a trial de novo, as none of the arbitration proceedings is taken into account in the new trial. This is tremendously frustrating for the party who won at the arbitration level, as the victory becomes meaningless and the whole procedure becomes a waste of time and money.

Your Committee has amended the concurrent resolution by specifying in more detail the issues that the Legislative Reference Bureau is requested to study, and by adding individual apartment owners to the parties encouraged to arbitrate disputes, to conform to the title.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 77, S.D. 1, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 77, S.D. 2.

Signed by the Chairman on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 2 (Matsuura, McCartney).

SCRep. 2793 Planning, Land and Water Use Management on S.R. No. 56

The purpose of this Resolution is to request that the Department of Land and Natural Resources (DLNR) review existing laws and administrative rules for the purpose of strengthening the prohibition against dumping debris, garbage, waste, or other materials in or near streams and rivers.

The measure also requests the DLNR to make recommendations for facilitating enforcement of the State's littering laws and increasing the penalties for violating such laws and report its findings and recommendations to the Legislature no later than twenty days before the convening of the Regular Session of 1997.

Your Committee finds that despite existing laws prohibiting the wanton disposal of waste, waste materials continue to be dumped into the State's waterways and on the State's stream and river banks at unacceptable levels. Your Committee believes that more stringent measures must be taken to prevent persons from dumping debris, garbage, waste, and other materials into the waterways or on stream and river banks.

As affirmed by the record of votes of the members of your Committee on Planning, Land and Water Use Management that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 56, S.D. 1, and recommends its adoption.

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Ige, Matsunaga, Anderson).

SCRep. 2794 Planning, Land and Water Use Management on S.C.R. No. 79

The purpose of this Concurrent Resolution is to request that the Department of Land and Natural Resources (DLNR) review existing laws and administrative rules for the purpose of strengthening the prohibition against dumping debris, garbage, waste, or other materials in or near streams and rivers.

The measure also requests the DLNR to make recommendations for facilitating enforcement of the State's littering laws and increasing the penalties for violating such laws and report its findings and recommendations to the Legislature no later than twenty days before the convening of the Regular Session of 1997.

Your Committee finds that despite existing laws prohibiting the wanton disposal of waste, waste materials continue to be dumped into the State's waterways and on the State's stream and river banks at unacceptable levels. Your Committee believes that more stringent measures must be taken to prevent persons from dumping debris, garbage, waste, and other materials into the waterways or on stream and river banks.

As affirmed by the record of votes of the members of your Committee on Planning, Land and Water Use Management that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 79, S.D. 1, and recommends its adoption.

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Ige, Matsunaga, Anderson).

SCRep. 2795 Planning, Land and Water Use Management on S.R. No. 135

The purpose of this Resolution is to request that the Department of Agriculture, through cooperative efforts with the Department of Land and Natural Resources, Agribusiness Development Corporation, county water boards, former plantation landowners, and the U.S. Department of Agriculture Rural and Economic and Community Development Agency, initiate the development of a comprehensive agricultural water delivery management system for areas considered for large-scale diversified agriculture.

This measure also requests that the Department of Agriculture submit a report on its progress to the Legislature not later than twenty days prior to the convening of the Regular Session of 1997.

Your Committee finds that the State of Hawaii is in transition from a mono-crop corporate agricultural system to diversified agriculture. The plantation systems that operated these mono-crop systems incorporated the management of thousands of miles of private roads, water delivery systems, fire prevention programs, and field maintenance.

Your Committee realizes that in order for the transition to diversified agriculture to be successful, it is imperative that cooperative efforts to maintain access, water systems, and appropriate field management occur.

As such, the success of diversified agricultural efforts ongoing in Hamakua, rural South Hilo, Waialua, Central Oahu, Ka'u, and Kauai and in other present and former plantation communities will largely depend on available, affordable, dependable water and access to properly maintained water delivery systems.

Currently, in spite of the best efforts of private landowners, state agencies and diversified agriculture lessees, no comprehensive infrastructure maintenance program is presently in place on many former plantations.

Your Committee believes that an inclusive approach to long range planning on this matter is necessary to bring about a workable and mutually beneficial outcome to this problem.

As affirmed by the record of votes of the members of your Committee on Planning, Land and Water Use Management that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 135 and recommends its adoption.

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Ige, Matsunaga, Anderson).

SCRep. 2796 Planning, Land and Water Use Management on S.C.R. No. 171

The purpose of this Concurrent Resolution is to request that the Department of Agriculture, through cooperative efforts with the Department of Land and Natural Resources, Agribusiness Development Corporation, county water boards, former plantation landowners, and the U.S. Department of Agriculture Rural and Economic and Community Development Agency, initiate the development of a comprehensive agricultural water delivery management system for areas considered for large-scale diversified agriculture.

This measure also requests that the Department of Agriculture submit a report on its progress to the Legislature not later than twenty days prior to the convening of the Regular Session of 1997.

Your Committee finds that the State of Hawaii is in transition from a mono-crop corporate agricultural system to diversified agriculture. The plantation systems that operated these mono-crop systems incorporated the management of thousands of miles of private roads, water delivery systems, fire prevention programs, and field maintenance.

Your Committee realizes that in order for the transition to diversified agriculture to be successful, it is imperative that cooperative efforts to maintain access, water systems, and appropriate field management occur.

As such, the success of diversified agricultural efforts ongoing in Hamakua, rural South Hilo, Waialua, Central Oahu, Ka'u, and Kauai and in other present and former plantation communities will largely depend on available, affordable, dependable water and access to properly maintained water delivery systems.

Currently, in spite of the best efforts of private landowners, state agencies and diversified agriculture lessees, no comprehensive infrastructure maintenance program is presently in place on many former plantations.

Your Committee believes that an inclusive approach to long range planning on this matter is necessary to bring about a workable and mutually beneficial outcome to this problem.

As affirmed by the record of votes of the members of your Committee on Planning, Land and Water Use Management that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 171 and recommends its adoption.

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Ige, Matsunaga, Anderson).

SCRep. 2797 Ways and Means on S.R. No. 38

The purpose of this resolution is to direct the Department of Land and Natural Resources to conduct a study to determine the feasibility of a land exchange as well as acquiring the Keakealaniwahine residence to complete the Keolonahihi State Cultural site.

This resolution also requests the Department of Land and Natural Resources to report its findings and recommendations to the Legislature no later than twenty days before the convening of the Regular Session of 1997.

Your Committee finds that the Keakealaniwahine residence is significant for its historical value as the residence of the highest ranking ali'i of her time on the island of Hawaii. Keakealaniwahine ruled the island for four generations before Kamehameha I. Keakealaniwahine and her mother are the only two women known to have been recognized as rulers of the island of Hawaii.

Your Committee further finds that Department of Land and Natural Resources would prefer to negotiate a land exchange with Dillingham Partners (the current owners of the property) in light of current budget constraints. A land exchange would result in acquisition of the historical site without expenditure of funds. Your Committee feels that every avenue should be explored to acquire sites like this one before they are lost to posterity and when revenues are limited, a land exchange might accomplish what would otherwise be impossible for lack of funds.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 38, S.D. 1, and recommends its adoption.

Signed by the Chairman on behalf of the Committee.

Ayes, 7. Noes, none. Excused, 4 (Ikeda, Fernandes Salling, Kanno, Solomon).

SCRep. 2798 Ways and Means on S.C.R. No. 51

The purpose of this concurrent resolution is to direct the Department of Land and Natural Resources to conduct a study to determine the feasibility of a land exchange as well as acquiring the Keakealaniwahine residence to complete the Keolonahihi State Cultural site.

This concurrent resolution also requests the Department of Land and Natural Resources to report its findings and recommendations to the Legislature no later than twenty days before the convening of the Regular Session of 1997.

Your Committee finds that the Keakealaniwahine residence is significant for its historical value as the residence of the highest ranking ali'i of her time on the island of Hawaii. Keakealaniwahine ruled the island for four generations before Kamehameha I. Keakealaniwahine and her mother are the only two women known to have been recognized as rulers of the island of Hawaii.

Your Committee further finds that Department of Land and Natural Resources would prefer to negotiate a land exchange with Dillingham Partners (the current owners of the property) in light of current budget constraints. A land exchange would result in acquisition of the historical site without expenditure of funds. Your Committee feels that every avenue should be explored to acquire sites like this one before they are lost to posterity and when revenues are limited, a land exchange might accomplish what would otherwise be impossible for lack of funds.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 51, S.D. 1, and recommends its adoption.

Signed by the Chairman on behalf of the Committee.

Ayes, 7. Noes, none. Excused, 4 (Ikeda, Fernandes Salling, Kanno, Solomon).

SCRep. 2799 Ways and Means on S.R. No. 63

The purpose of this resolution is to request the United States Congress to not enact federal legislative mandates on states without necessary funding.

Your Committee finds that the State has been burdened with an alarming number of unfunded federal mandates in recent years. An uninterrupted flow of these mandates places the State in the precarious position of either attempting to fund the mandates with diminished state funds or not funding the mandates at the risk of jeopardizing federal fund eligibility.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 63 and recommends its adoption.

Signed by the Chairman on behalf of the Committee.

Ayes, 7. Noes, none. Excused, 4 (Ikeda, Fernandes Salling, Kanno, Solomon).

SCRep. 2800 Ways and Means on S.C.R. No. 86

The purpose of this concurrent resolution is to request the United States Congress to not enact federal legislative mandates on states without necessary funding.

Your Committee finds that the State has been burdened with an alarming number of unfunded federal mandates in recent years. An uninterrupted flow of these mandates places the State in the precarious position of either attempting to fund the mandates with diminished state funds or not funding the mandates at the risk of jeopardizing federal fund eligibility.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 86 and recommends its adoption.

Signed by the Chairman on behalf of the Committee.

Ayes, 7. Noes, none. Excused, 4 (Ikeda, Fernandes Salling, Kanno, Solomon).

SCRep. 2801 Ways and Means on S.R. No. 76

The purpose of this resolution is to encourage change in the federal estate tax law that will protect family residences for future generations.

This resolution asks the members of Hawaii's congressional delegation to support amendments to the federal estate tax law that will exclude the value of a principal residence when computing the value of a decedent's gross estate. Because of the substantial increase in value of real estate in Hawaii, many families are faced with an astronomical estate tax bill at the death of their loved ones. This has led to families having to sell the house to pay the taxes.

Your Committee finds that it was not the intent of the estate tax law to add to the housing crisis and that these appreciated real estate values should have a special exclusionary consideration. Alternatively, Congress could increase the amount of the unified credit against estate tax that would effectively exclude the appreciated value of a principal residence.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 76 and recommends its adoption.

Signed by the Chairman on behalf of the Committee.

Ayes, 7. Noes, none. Excused, 4 (Ikeda, Fernandes Salling, Kanno, Solomon).

SCRep. 2802 Ways and Means on S.C.R. No. 100

The purpose of this concurrent resolution is to encourage change in the federal estate tax law that will protect family residences for future generations.

This concurrent resolution asks the members of Hawaii's congressional delegation to support amendments to the federal estate tax law that will exclude the value of a principal residence when computing the value of a decedent's gross estate. Because of the substantial increase in value of real estate in Hawaii, many families are faced with an astronomical estate tax bill at the death of their loved ones. This has led to families having to sell the house to pay the taxes.

Your Committee finds that it was not the intent of the estate tax law to add to the housing crisis and that these appreciated real estate values should have a special exclusionary consideration. Alternatively, Congress could increase the amount of the unified credit against estate tax that would effectively exclude the appreciated value of a principal residence.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 100 and recommends its adoption.

Signed by the Chairman on behalf of the Committee.

Ayes, 7. Noes, none. Excused, 4 (Ikeda, Fernandes Salling, Kanno, Solomon).

SCRep. 2803 Ways and Means on S.C.R. No. 164

The purpose of this concurrent resolution is to request the President of the Senate and the Speaker of the House of Representatives to establish a Joint Interim Committee on Education Budget Reform for the purpose of developing a revised appropriations structure for public education.

Over the past several years, the Legislature has initiated systemic education reforms and initiatives to decentralize the public school system and, thereby, encourage the development of innovative curriculum and alternative administrative structures at the school-level. Although the education budget structure has been modified over the past several years at the request of the Department of Education, the present "lump-sum" budget format does not support reforms and initiatives to decentralize the public school system. Consequently, it is imperative that the Legislature develop a school-based budget system that supports the implementation of systemic reforms and initiatives enacted over the past several years.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 164, S.D. 1, and recommends its adoption.

Signed by the Chairman on behalf of the Committee.

Ayes, 7. Noes, none. Excused, 4 (Ikeda, Fernandes Salling, Kanno, Solomon).

SCRep. 2804 Ways and Means on S.C.R. No. 176

The purpose of this concurrent resolution is to express the Legislature's support for the mooring of the U.S.S. Missouri at Battleship Row in Pearl Harbor.

Specifically, this concurrent resolution: (1) supports the effort of Hawaii's congressional delegation to moor the U.S.S. Missouri in Pearl Harbor; (2) directs the Legislative Reference Bureau to study the State's law relating to use of special purpose revenue bonds; and (3) directs the Department of Business, Economic Development, and Tourism to analyze the impact of authorizing the use of special purpose revenue bonds for the development of infrastructure to moor the U.S.S. Missouri in Pearl Harbor.

Your Committee finds that the U.S.S. Arizona and its sister ship, the U.S.S. Missouri, played pivotal roles in two of the most significant events of World War II--the attack on Pearl Harbor in 1941, and the signing of formal surrender by Japan in 1945. Currently, an organized effort is under way to finance and bring about the mooring of the U.S.S. Missouri along Battleship Row, directly adjacent to the Arizona Memorial. This concurrent resolution supports this effort and calls for a review of the State's special purpose revenue bond law to determine the propriety of utilizing these bonds to develop the infrastructure needed to moor the U.S.S. Missouri at this location.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 176, S.D. 1, and recommends its adoption.

Signed by the Chairman on behalf of the Committee.

Ayes, 7. Noes, none. Excused, 4 (Ikeda, Fernandes Salling, Kanno, Solomon).

SCRep. 2805 Agriculture, Labor and Employment on S.R. No. 16

The purpose of this Resolution is to request that the Department of Land and Natural Resources, in conjunction with the Department of Agriculture, locate and designate a suitable site on the island of Oahu that will meet environmental and United State Department of Agriculture (USDA) standards.

Your Committee finds that the future of the State's livestock industry rests significantly on the existence of a slaughterhouse facility on Oahu. Your Committee also finds that the lease for the existing Oahu slaughterhouse located at Honouliuli will soon expire and that this slaughterhouse is the only USDA approved facility on Oahu that slaughters cattle, hogs, and sheep.

Your Committee also finds that Campbell Estate, as the lessor of the land upon which the slaughterhouse is situated, desires to develop other uses on the existing site. This decision by the lessor, coupled with the reality that the planning for the construction of a new slaughterhouse facility will take at least two years to get the necessary permits and environmental assessments, makes the timely designation of a new slaughterhouse site imperative.

Your Committee has amended the measure to express the urgency of the situation and to include that the Department of Land and Natural Resources, in conjunction with the Department of Agriculture, report to the Legislature prior to the convening of the 1997 Regular Session on its actions to locate and designate a new site for the slaughterhouse.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 16, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 16, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Baker, Anderson).

SCRep. 2806 Agriculture, Labor and Employment on S.C.R. No. 24

The purpose of this Concurrent Resolution is to request that the Department of Land and Natural Resources, in conjunction with the Department of Agriculture, locate and designate a suitable site on the island of Oahu that will meet environmental and United State Department of Agriculture (USDA) standards.

Your Committee finds that the future of the State's livestock industry rests significantly on the existence of a slaughterhouse facility on Oahu. Your Committee also finds that the lease for the existing Oahu slaughterhouse located at Honouliuli will soon expire and that this slaughterhouse is the only USDA approved facility on Oahu that slaughters cattle, hogs, and sheep.

Your Committee also finds that Campbell Estate, as the lessor of the land upon which the slaughterhouse is situated, desires to develop other uses on the existing site. This decision by the lessor, coupled with the reality that the planning for the construction of a new slaughterhouse facility will take at least two years to get the necessary permits and environmental assessments, makes the timely designation of a new slaughterhouse site imperative.

Your Committee has amended the measure to express the urgency of the situation and to include that the Department of Land and Natural Resources, in conjunction with the Department of Agriculture, report to the Legislature prior to the convening of the 1997 Regular Session on its actions to locate and designate a new site for the slaughterhouse.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee 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 the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Baker, Anderson).

SCRep. 2807 Agriculture, Labor and Employment on S.R. No. 49

The purpose of this Resolution is to urge the Governor to place a high administrative priority on existing pest eradication and prevention programs, as well as the development and implementation of new programs recommended by the Coordinating Group on Alien Pest Species (CGAPS).

Your Committee finds that the Hawaiian islands are among the most environmentally sensitive areas in the world, containing unique and extremely fragile ecosystems. The State's 150 recognized ecosystems are home to more than one-third of the 526 plant species and 88 bird species on the United States endangered and threatened species list. As such, conservationists call Hawaii the "Endangered Species Capital of the World," as three-fourths of the nation's extinct plant and bird species once lived only on our islands.

Your Committee also finds that alien pest species are considered the single greatest threat to the survival of our native Hawaiian plant and bird species and on average, twenty new insect species arrive in Hawaii each year, of which ten become pests.

Your Committee believes that supporting efforts to protect the State's delicate environment are necessary in order to ensure that Hawaii's natural treasures are available for generations to come.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 49 and recommends its adoption.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Baker, Anderson).

SCRep. 2808 Agriculture, Labor and Employment on S.C.R. No. 72

The purpose of this Concurrent Resolution is to urge the Governor to place a high administrative priority on existing pest eradication and prevention programs, as well as the development and implementation of new programs recommended by the Coordinating Group on Alien Pest Species (CGAPS).

Your Committee finds that the Hawaiian islands are among the most environmentally sensitive areas in the world, containing unique and extremely fragile ecosystems. The State's 150 recognized ecosystems are home to more than one-third of the 526 plant species and 88 bird species on the United States endangered and threatened species list. As such, conservationists call Hawaii the "Endangered Species Capital of the World," as three-fourths of the nation's extinct plant and bird species once lived only on our islands.

Your Committee also finds that alien pest species are considered the single greatest threat to the survival of our native Hawaiian plant and bird species and on average, twenty new insect species arrive in Hawaii each year, of which ten become pests.

Your Committee believes that supporting efforts to protect the State's delicate environment are necessary in order to ensure that Hawaii's natural treasures are available for generations to come.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 72 and recommends its adoption.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Baker, Anderson).

SCRep. 2809 Tourism and Recreation on S.C.R. No. 108

The purpose of this Concurrent Resolution is to urge the U.S. Congress and the U.S. Department of State to approve a visa waiver pilot program for citizens from the Republic of Korea visiting Hawaii.

Your Committee finds that Korea is currently the number one visa issuing post in the world. Your Committee further finds that there is broad-based support among Korean travel operators as well as Hawaii and other travel destinations, to adopt a visa waiver program for Korea visitors.

Upon further consideration, your Committee has amended this measure by adding two WHEREAS clauses as follows:

- (1) WHEREAS, according to the U.S. Embassy in Seoul, Korea, less than one percent of Korean visa applicants under the Travel Agent Referral Program are refused visas at present, which is well below the three and one-half percent threshold to qualify for the visa waiver program; and
- (2) WHEREAS, the participants of the first White House Conference on Tourism held in October 1995, overwhelmingly voted to make this initiative a national priority.

As affirmed by the record of votes of the members of your Committee on Tourism and Recreation that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 108, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 108, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Fernandes Salling, Iwase, Liu).

SCRep. 2810 Tourism and Recreation on S.R. No. 167

The purpose of this Senate Resolution, as received by your Committee, is to request the Department of Business, Economic Development, and Tourism to determine the feasibility of establishing regional sports playing fields on the Kohala Coast of the Big Island.

Your Committee finds that government and private sector leaders in Hawaii have been seeking ways to diversify our State's economic base, including the development of a sports industry. Your Committee further finds that Hawaii's well-known history and affiliation with baseball would be a natural place to begin as far as attracting professional leagues for training and exhibition play in Hawaii.

Thus, upon further consideration, your Committee has amended this measure by:

- (1) Changing the title to read: "SENATE RESOLUTION REQUESTING THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM TO DETERMINE THE FEASIBILITY OF ESTABLISHING REGIONAL SPORTS PLAYING FIELDS AND SPRING BASEBALL TRAINING CAMPS THROUGHOUT THE STATE OF HAWAII";
- (2) Adding several WHEREAS clauses about the appropriateness and significance of Asian baseball leagues to the development of regional playing fields through Spring baseball training camps;
- (3) Adding the development of Spring baseball training camps to the study to be conducted by the Department; and
- (4) Sending certified copies of this Resolution to the Governor, the Mayors of each county, the Consulate General of Japan, the Korean Consulate General, and the Taipei Economic and Cultural Office in Honolulu.

As affirmed by the record of votes of the members of your Committee on Tourism and Recreation that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 167, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 167, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Fukunaga, Kawamoto).

SCRep. 2811 Tourism and Recreation on S.C.R. No. 209

The purpose of this Senate Concurrent Resolution, as received by your Committee, is to request the Department of Business, Economic Development, and Tourism to determine the feasibility of establishing regional sports playing fields on the Kohala Coast of the Big Island.

Your Committee finds that government and private sector leaders in Hawaii have been seeking ways to diversify our State's economic base, including the development of a sports industry. Your Committee further finds that Hawaii's well-

known history and affiliation with baseball would be a natural place to begin as far as attracting professional leagues for training and exhibition play in Hawaii.

Thus, upon further consideration, your Committee has amended this measure by:

- (1) Changing the title to read: "SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM TO DETERMINE THE FEASIBILITY OF ESTABLISHING REGIONAL SPORTS PLAYING FIELDS AND SPRING BASEBALL TRAINING CAMPS THROUGHOUT THE STATE OF HAWAII";
- (2) Adding several WHEREAS clauses about the appropriateness and significance of Asian baseball leagues to the development of regional playing fields through Spring baseball training camps;
- (3) Adding the development of Spring baseball training camps to the study to be conducted by the Department; and
- (4) Sending certified copies of this Concurrent Resolution to the Governor, the Mayors of each county, the Consulate General of Japan, the Korean Consulate General, and the Taipei Economic and Cultural Office in Honolulu.

As affirmed by the record of votes of the members of your Committee on Tourism and Recreation that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 209, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 209, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Fukunaga, Kawamoto).

SCRep. 2812 Tourism and Recreation on S.R. No. 195

The purpose of this Resolution is to request the Department of Business, Economic Development, and Tourism to develop and promote health tourism on the Kohala Coast of the Big Island.

Your Committee finds that the visitor industry in Hawaii needs to expand and develop new markets to attract additional first time and returning visitors. Your Committee further finds that the Kohala Coast of the Big Island possesses the physical environment and climate as well as existing resort infrastructure and health care services that support opportunities for further development of a market for health-care minded visitors.

Your Committee has amended this measure by adding two whereas clauses as follows:

- (1) WHEREAS, the Five Mountain Medical Community, an ongoing nonprofit organization will assist in:
 - (1) Identifying existing and potential resources and programs for health and healing in the Five Mountain region (northwest Hawaii) and coordinating them into a unified whole reflecting the rich diversity of Hawaiian culture;
 - (2) Identifying and recruiting people who will contribute significantly to the development of a world-class integrated health care community located in the Five Mountain region; and
 - (3) Assessing the programs and staffing in order to continually improve their effectiveness and efficiency;

and
- (2) WHEREAS, the private sector's participation in the development and implementation of an action plan for health tourism programs on the Kohala Coast of the Big Island will be essential to the success of these programs.

Your Committee has further amended this measure by inserting conforming references to the Five Mountain Medical Community in appropriate BE IT RESOLVED CLAUSES.

As affirmed by the record of votes of the members of your Committee on Tourism and Recreation that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 195, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 195, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Fernandes Salling, Iwase, Liu).

SCRep. 2813 Tourism and Recreation on S.C.R. No. 243

The purpose of this Concurrent Resolution is to request the Department of Business, Economic Development, and Tourism to develop and promote health tourism on the Kohala Coast of the Big Island.

Your Committee finds that the visitor industry in Hawaii needs to expand and develop new markets to attract additional first time and returning visitors. Your Committee further finds that the Kohala Coast of the Big Island possesses the physical environment and climate as well as existing resort infrastructure and health care services that support opportunities for further development of a market for health-care minded visitors.

Your Committee has amended this measure by adding two whereas clauses as follows:

- (1) WHEREAS, the Five Mountain Medical Community, an ongoing nonprofit organization will assist in:

- (1) Identifying existing and potential resources and programs for health and healing in the Five Mountain region (northwest Hawaii) and coordinating them into a unified whole reflecting the rich diversity of Hawaiian culture;
 - (2) Identifying and recruiting people who will contribute significantly to the development of a world-class integrated health care community located in the Five Mountain region; and
 - (3) Assessing the programs and staffing in order to continually improve their effectiveness and efficiency;
- and
- (2) WHEREAS, the private sector's participation in the development and implementation of an action plan for health tourism programs on the Kohala Coast of the Big Island will be essential to the success of these programs.

Your Committee has further amended this measure by inserting conforming references to the Five Mountain Medical Community in appropriate BE IT RESOLVED CLAUSES.

As affirmed by the record of votes of the members of your Committee on Tourism and Recreation that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 243, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 243, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Fernandes Salling, Iwase, Liu).

SCRep. 2814 (Joint/Majority) Tourism and Recreation and Ways and Means on S.R. No. 224

The purpose of this Resolution, as received by your Committees, is to request a study of the economic impacts related to shipboard gaming in Hawaii.

Your Committees find that the debate about whether to legalize gambling in Hawaii has been focussed on social issues, and policy-makers have not received sufficient information about the potential impacts, positive or negative, on Hawaii's economy of various forms of legalized gaming. Your Committees further find that the two forms of gaming that appear to be acceptable to many and most appropriate for Hawaii are shipboard casinos and pari-mutuel horse racing.

Thus, your Committees have amended this measure by:

- (1) Changing the title to read "SENATE RESOLUTION REQUESTING A STUDY OF THE ECONOMIC IMPACTS RELATED TO LEGALIZED GAMING IN HAWAII";
- (2) Expanding the study to include pari-mutuel horse racing; and
- (3) Making nonsubstantive, technical changes for the purposes of clarity and style.

As affirmed by the records of votes of the members of your Committees on Tourism and Recreation and Ways and Means that are attached to this report, your Committees concur with the intent and purpose of S.R. No. 224, as amended herein, and recommend its adoption in the form attached hereto as S.R. No. 224, S.D. 1.

Signed by the Chairmen on behalf of the Committees.
Ayes, 9. Noes, 1 (Liu). Excused, 2 (Iwase, Taniguchi).

SCRep. 2815 (Joint/Majority) Tourism and Recreation and Ways and Means on S.C.R. No. 282

The purpose of this Concurrent Resolution, as received by your Committees, is to request a study of the economic impacts related to shipboard gaming in Hawaii.

Your Committees find that the debate about whether to legalize gambling in Hawaii has been focussed on social issues, and policy-makers have not received sufficient information about the potential impacts, positive or negative, on Hawaii's economy of various forms of legalized gaming. Your Committees further find that the two forms of gaming that appear to be acceptable to many and most appropriate for Hawaii are shipboard casinos and pari-mutuel horse racing.

Thus, your Committees have amended this measure by:

- (1) Changing the title to read "SENATE CONCURRENT RESOLUTION REQUESTING A STUDY OF THE ECONOMIC IMPACTS RELATED TO LEGALIZED GAMING IN HAWAII";
- (2) Expanding the study to include pari-mutuel horse racing; and
- (3) Making nonsubstantive, technical changes for the purposes of clarity and style.

As affirmed by the records of votes of the members of your Committees on Tourism and Recreation and Ways and Means that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 282, as amended herein, and recommend its adoption in the form attached hereto as S.C.R. No. 282, S.D. 1.

Signed by the Chairmen on behalf of the Committees.
Ayes, 9. Noes, 1 (Liu). Excused, 2 (Iwase, Taniguchi).

SCRep. 2816 Economic Development on S.R. No. 123

The purpose of this Resolution is to request the Department of Business, Economic Development, and Tourism (DBEDT) to support, and collaborate and work with, the Hawaii Health Foundation in its effort to develop and promote Hawaii as a destination center for health.

Your Committee finds that developing and promoting Hawaii as a world center for health and healing would enhance not only the State's ability to care for its residents, but would also strengthen the State's ability to attract and provide health care for visitor/patients from around the world.

Your Committee has amended this measure by:

- (1) Adding the University of Hawaii School of Nursing to the list of agencies with which DBEDT is required to consult in formulating its development plan, and to the list of agencies and other entities to receive certified copies of this measure;
- (2) Requiring that DBEDT, through the State's congressional delegation, investigate the possibility of the issuance of special retirement visas for visitors to Hawaii, and adding the State's congressional delegation to the list of agencies and other entities to receive certified copies of this measure; and
- (3) Making several technical, nonsubstantive changes for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Economic Development that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 123, S.D. 1, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 123, S.D. 2.

Signed by the Chairman on behalf of the Committee.

Ayes, 5. Noes, none. Excused, none.

SCRep. 2817 Economic Development on S.C.R. No. 156

The purpose of this Concurrent Resolution is to request the Department of Business, Economic Development, and Tourism (DBEDT) to support, and collaborate and work with, the Hawaii Health Foundation in its effort to develop and promote Hawaii as a destination center for health.

Your Committee finds that developing and promoting Hawaii as a world center for health and healing would enhance not only the State's ability to care for its residents, but would also strengthen the State's ability to attract and provide health care for visitor/patients from around the world.

Your Committee has amended this measure by:

- (1) Adding the University of Hawaii School of Nursing to the list of agencies with which DBEDT is required to consult in formulating its development plan, and to the list of agencies and other entities to receive certified copies of this measure;
- (2) Requiring that DBEDT, through the State's congressional delegation, investigate the possibility of the issuance of special retirement visas for visitors to Hawaii, and adding the State's congressional delegation to the list of agencies and other entities to receive certified copies of this measure; and
- (3) Making several technical, nonsubstantive changes for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Economic Development that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 156, S.D. 1, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 156, S.D. 2.

Signed by the Chairman on behalf of the Committee.

Ayes, 5. Noes, none. Excused, none.

SCRep. 2818 Agriculture, Labor and Employment on S.R. No. 25

The purpose of this Resolution is to request that the Board of Education establish temporary positions and enter into collective bargaining agreements to benefit intermediate and high school music teachers.

Specifically, the Board of Education is requested to enter into a collective bargaining agreement with the Hawaii State Teachers Association to provide pay differentials of \$5,000 per school year for intermediate and high school music teachers without marching band responsibilities, and pay differentials of \$10,000 per school year for high school music teachers whose programs include a marching band.

Under this measure, the Board of Education is also requested to create 20.00 temporary, full-time equivalent, educational assistant positions for music education, and to equitably distribute these positions among intermediate and high schools in the State based on the number of students enrolled in band, orchestra, and other music classes.

Your Committee finds that many high school band directors spend more than six hundred hours per year (the equivalent of eighty-six, seven-hour school days) beyond the official school day on band-related activities. These activities include monitoring folder and music check-out and return, organizing and conducting group sectionals,

designing marching drills, scheduling and supervising additional evening or weekend performances, planning and preparing for participation in music festivals, planning and conducting noncredit pep bands and stage bands, and involvement in band-booster programs. The Department of Education's recommended student-to-teacher ratio for band programs is one hundred fifty-nine to one (159:1); however, this recommendation is usually exceeded at schools with large band programs. Many band directors perform these activities without the assistance of other music teachers or educational assistants.

Your Committee also finds that although the workload of band directors can be reduced by hiring additional music teachers and educational assistants, there is also a need to compensate band directors for the extra hours they spend on band-related activities throughout the calendar year.

In light of these findings, your Committee believes that it is in the best interest of the State to ensure that current band directors do not "burn out" or leave the teaching profession for less stressful or more profitable occupations.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 25 and recommends its adoption.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Taniguchi, Anderson).

SCRep. 2819 Agriculture, Labor and Employment on S.C.R. No. 36

The purpose of this Concurrent Resolution is to request that the Board of Education establish temporary positions and enter into collective bargaining agreements to benefit intermediate and high school music teachers.

Specifically, the Board of Education is requested to enter into a collective bargaining agreement with the Hawaii State Teachers Association to provide pay differentials of \$5,000 per school year for intermediate and high school music teachers without marching band responsibilities, and pay differentials of \$10,000 per school year for high school music teachers whose programs include a marching band.

Under this measure, the Board of Education is also requested to create 20.00 temporary, full-time equivalent, educational assistant positions for music education, and to equitably distribute these positions among intermediate and high schools in the State based on the number of students enrolled in band, orchestra, and other music classes.

Your Committee finds that many high school band directors spend more than six hundred hours per year (the equivalent of eighty-six, seven-hour school days) beyond the official school day on band-related activities. These activities include monitoring folder and music check-out and return, organizing and conducting group sectionals, designing marching drills, scheduling and supervising additional evening or weekend performances, planning and preparing for participation in music festivals, planning and conducting noncredit pep bands and stage bands, and involvement in band-booster programs. The Department of Education's recommended student-to-teacher ratio for band programs is one hundred fifty-nine to one (159:1); however, this recommendation is usually exceeded at schools with large band programs. Many band directors perform these activities without the assistance of other music teachers or educational assistants.

Your Committee also finds that although the workload of band directors can be reduced by hiring additional music teachers and educational assistants, there is also a need to compensate band directors for the extra hours they spend on band-related activities throughout the calendar year.

In light of these findings, your Committee believes that it is in the best interest of the State to ensure that current band directors do not "burn out" or leave the teaching profession for less stressful or more profitable occupations.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 36 and recommends its adoption.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Taniguchi, Anderson).

SCRep. 2820 Agriculture, Labor and Employment on S.R. No. 212

The purpose of this Resolution is to request that the Department of Agriculture recommend, if feasible, a strategy to promote locally grown coffee worldwide as a replacement for pineapple and sugarcane.

Your Committee finds that coffee was Hawaii's premier crop in the 1890's, and was grown on the islands of Hawaii, Kauai, Molokai, Maui, and Oahu, with approximately 15,000 acres under cultivation. In the early 1900's, coffee was subsequently supplanted as the State's premier crop by the less labor intensive crops of pineapple and sugarcane.

With the decline of the pineapple and sugarcane industries in the State, Hawaii must look toward other crops to replace sugar and pineapple within its agricultural plan. This need, coupled with Hawaii's excellent soil and climatic conditions and the worldwide demand for coffee, give locally grown coffee great commercial potential.

Your Committee has amended the measure by deleting the fifth "WHEREAS" clause which states that coffee could replace the 300,000 acres of agricultural land statewide left vacant due to the decline of sugar and pineapple.

Your Committee believes that although increased coffee production could prove lucrative for the State's economy, the increased production should be approached on a less ambitious scale.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 212, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 212, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Baker, Anderson).

SCRep. 2821 Agriculture, Labor and Employment on S.C.R. No. 265

The purpose of this Concurrent Resolution is to request that the Department of Agriculture recommend, if feasible, a strategy to promote locally grown coffee worldwide as a replacement for pineapple and sugarcane.

Your Committee finds that coffee was Hawaii's premier crop in the 1890's, and was grown on the islands of Hawaii, Kauai, Molokai, Maui, and Oahu, with approximately 15,000 acres under cultivation. In the early 1900's, coffee was subsequently supplanted as the State's premier crop by the less labor intensive crops of pineapple and sugarcane.

With the decline of the pineapple and sugarcane industries in the State, Hawaii must look toward other crops to replace sugar and pineapple within its agricultural plan. This need, coupled with Hawaii's excellent soil and climatic conditions and the worldwide demand for coffee, give locally grown coffee great commercial potential.

Your Committee has amended the measure by deleting the fifth "WHEREAS" clause which states that coffee could replace the 300,000 acres of agricultural land statewide left vacant due to the decline of sugar and pineapple.

Your Committee believes that although increased coffee production could prove lucrative for the State's economy, the increased production should be approached on a less ambitious scale.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 265, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 265, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Baker, Anderson).

SCRep. 2822 Education on S.R. No. 2

The purpose of this Resolution, as received by your Committee, is to request the Department of Accounting and General Services to name the administration building at Waipahu High School the "Milton Shishido Administration Building."

Your Committee finds that there are often individuals who serve a community that members of the community wish to recognize in perpetuity. However, your Committee has been informed that the general practice regarding the naming of buildings for individuals is more appropriate upon the individual's retirement or their demise. Your Committee has been further advised that the naming of school buildings is within the purview of the Board of Education. Therefore, upon further consideration, your Committee has amended this Resolution by:

- (1) Changing the title to read: "SENATE RESOLUTION REQUESTING THE BOARD OF EDUCATION TO CONSIDER NAMING THE ADMINISTRATION BUILDING AT WAIPAHU HIGH SCHOOL THE "MILTON SHISHIDO ADMINISTRATION BUILDING"; and
- (2) Changing the first BE IT RESOLVED clause to request that the Board of Education consider naming the administration building after Milton Shishido, upon his retirement.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 2, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 2, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Bunda, Matsunaga).

SCRep. 2823 Education on S.C.R. No. 6

The purpose of this Concurrent Resolution, as received by your Committee, is to request the Department of Accounting and General Services to name the administration building at Waipahu High School the "Milton Shishido Administration Building."

Your Committee finds that there are often individuals who serve a community that members of the community wish to recognize in perpetuity. However, your Committee has been informed that the general practice regarding the naming of buildings for individuals is more appropriate upon the individual's retirement or their demise. Your Committee has been further advised that the naming of school buildings is within the purview of the Board of Education. Therefore, upon further consideration, your Committee has amended this Concurrent Resolution by:

- (1) Changing the title to read: "SENATE CONCURRENT RESOLUTION REQUESTING THE BOARD OF EDUCATION TO CONSIDER NAMING THE ADMINISTRATION BUILDING AT WAIPAHU HIGH SCHOOL THE "MILTON SHISHIDO ADMINISTRATION BUILDING"; and

- (2) Changing the first BE IT RESOLVED clause to request that the Board of Education consider naming the administration building after Milton Shishido, upon his retirement.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 6, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 6, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Bunda, Matsunaga).

SCRep. 2824 Education on S.R. No. 5

The purpose of this Resolution is to request the Department of Education (DOE) to work in conjunction with the youth of the First Representative District and community agencies in the area to develop community-based youth programs.

Your Committee finds that allowing students to channel their energies and efforts into constructive programs and activities develops their talents, knowledge, and willingness to serve the needs of others. This idea is also consistent with the State's commitment to youth, who truly represent the finest and best potential for a better and brighter future. Your Committee recognizes the power of each community to bring together various parties, agencies, and people for the common goal of advancing the interests of youth.

Your Committee further finds that students from various schools in the First Representative District have already initiated efforts to build programs that present opportunities for personal growth and development and a strong sense of confidence and pride. This Resolution seeks to encourage and continue that practice with the help of the DOE to support and collaborate with various community associations and government agencies which are involved with youth programs in the First Representative District.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 5 and recommends its adoption.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Bunda, Matsunaga).

SCRep. 2825 Education on S.C.R. No. 10

The purpose of this Concurrent Resolution is to request the Department of Education (DOE) to work in conjunction with the youth of the First Representative District and community agencies in the area to develop community-based youth programs.

Your Committee finds that allowing students to channel their energies and efforts into constructive programs and activities develops their talents, knowledge, and willingness to serve the needs of others. This idea is also consistent with the State's commitment to youth, who truly represent the finest and best potential for a better and brighter future. Your Committee recognizes the power of each community to bring together various parties, agencies, and people for the common goal of advancing the interests of youth.

Your Committee further finds that students from various schools in the First Representative District have already initiated efforts to build programs that present opportunities for personal growth and development and a strong sense of confidence and pride. This Concurrent Resolution seeks to encourage and continue that practice with the help of the DOE to support and collaborate with various community associations and government agencies which are involved with youth programs in the First Representative District.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 10 and recommends its adoption.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Bunda, Matsunaga).

SCRep. 2826 Education on S.R. No. 33

The purpose of this Resolution is to request the Department of Education to advise parents and guardians of the student code of conduct and their responsibilities relating to it.

Your Committee finds that the Board of Education adopted the Student Code of Conduct in 1995, pursuant to discussion and collaboration between representatives of the Board, the Hawaii State Teachers Association, the Hawaii State Parent, Teacher, Student Association, and the Hawaii State Student Council. Your Committee further finds that parental notification by the Department through the schools will enhance the effectiveness of the Student Code of Conduct.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 33 and recommends its adoption.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Bunda, Matsunaga).

SCRep. 2827 Education on S.C.R. No. 45

The purpose of this Concurrent Resolution is to request the Department of Education to advise parents and guardians of the student code of conduct and their responsibilities relating to it.

Your Committee finds that the Board of Education adopted the Student Code of Conduct in 1995, pursuant to discussion and collaboration between representatives of the Board, the Hawaii State Teachers Association, the Hawaii State Parent, Teacher, Student Association, and the Hawaii State Student Council. Your Committee further finds that parental notification by the Department through the schools will enhance the effectiveness of the Student Code of Conduct.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 45 and recommends its adoption.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Bunda, Matsunaga).

SCRep. 2828 Education on S.R. No. 72

The purpose of this Resolution is to request the Department of Education (DOE) to consider differences in the intensity and amount of use and abuse that school facilities receive when determining custodial staffing levels for each school.

Under current DOE practice, custodial staffing levels for each school are determined by quantitative criteria relating to the time required to clean, the number of rooms to clean, and the number of times per week cleaning is performed. This Resolution asks the DOE to factor in qualitative criteria of the condition of the facility. Your Committee finds that some schools need more cleaning than others and should be cleaned more frequently to maintain an adequate learning environment.

Your Committee has amended this Resolution to add in the resolved paragraph that the DOE also consider the topography of the school grounds in determining custodial staffing levels.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of S.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 the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Bunda, Matsunaga).

SCRep. 2829 Education on S.C.R. No. 96

The purpose of this Concurrent Resolution is to request the Department of Education (DOE) to consider differences in the intensity and amount of use and abuse that school facilities receive when determining custodial staffing levels for each school.

Under current DOE practice, custodial staffing levels for each school are determined by quantitative criteria relating to the time required to clean, the number of rooms to clean, and the number of times per week cleaning is performed. This Concurrent Resolution asks the DOE to factor in qualitative criteria of the condition of the facility. Your Committee finds that some schools need more cleaning than others and should be cleaned more frequently to maintain an adequate learning environment.

Your Committee has amended this Concurrent Resolution to add in the resolved paragraph that the DOE also consider the topography of the school grounds in determining custodial staffing levels.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 96, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 96, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Bunda, Matsunaga).

SCRep. 2830 Education on S.R. No. 106

The purpose of this resolution is to request the Department of Education (DOE) to adopt and implement procedural guidelines for assistive technology.

Assistive technology is used to help persons with disabilities to learn skills and function independently in their homes, schools, and communities, thus enabling them to pursue and expand vocational goals. Assistive technology includes an array of devices such as wheelchairs, adapted keyboards, glasses, braille printers, hearing aids, phone amplifiers, artificial larynxes, and picture boards.

Under the federal Individuals with Disabilities Education Act of 1990, and recent policy letters from the federal Office of Special Education Programs, school systems must provide assistive technology to children with disabilities when these devices are deemed necessary for students to obtain federally mandated "free and appropriate public education."

This resolution would assure that the DOE is within the federal requirements and would allow thousands of students with disabilities to truly obtain a "free and appropriate public education" so that they may perform at their optimal education levels and reach their potential.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 106 and recommends its adoption.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Bunda, Matsunaga).

SCRep. 2831 Education on S.C.R. No. 137

The purpose of this concurrent resolution is to request the Department of Education (DOE) to adopt and implement procedural guidelines for assistive technology.

Assistive technology is used to help persons with disabilities to learn skills and function independently in their homes, schools, and communities, thus enabling them to pursue and expand vocational goals. Assistive technology includes an array of devices such as wheelchairs, adapted keyboards, glasses, braille printers, hearing aids, phone amplifiers, artificial larynxes, and picture boards.

Under the federal Individuals with Disabilities Education Act of 1990, and recent policy letters from the federal Office of Special Education Programs, school systems must provide assistive technology to children with disabilities when these devices are deemed necessary for students to obtain federally mandated "free and appropriate public education."

This concurrent resolution would assure that the DOE is within the federal requirements and would allow thousands of students with disabilities to truly obtain a "free and appropriate public education" so that they may perform at their optimal education levels and reach their potential.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 137 and recommends its adoption.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Bunda, Matsunaga).

SCRep. 2832 Education on S.R. No. 133

The purpose of this Resolution is to request that the Board of Education (BOE) study, with a view towards modifying, its policy of requiring students to have a 2.0 grade point average (GPA) to qualify to participate in co-curricular activities.

The measure also requests that the BOE report on its findings and recommendations to the Legislature prior to the convening of the Regular Session of 1997.

Your Committee finds that the BOE has a policy for academic requirements for participation in co-curricular activities that states: "Students participating in co-curricular activities must have at least an overall 2.0 GPA and be passing in courses required for graduation". According to the BOE's "Guidelines for Implementing the Academic Requirements for Participation in Co-Curricular Activities", "participation" refers to official participation and does not include practices, rehearsals, and try-outs. Those guidelines further provide that a student deemed ineligible to participate in co-curricular activities shall be granted probationary status, upon request, if that student's GPA is 1.6 or higher but less than 2.0 with only one F grade.

During probation, a student may practice but not participate ("non-official involvement") in a co-curricular activity, which means that the student may not play in preseason or season contests or be involved in proceedings such as club, class officer, school government, or special events meetings or activities.

Your Committee also finds that as participation in school sports fosters an interest to stay in school and provides motivation for students to keep up grades, the 2.0 policy may be too stringent for many student athletes. In light of the fact that many of Hawaii's high school students are on the brink of dropping out of school and have high absenteeism, your Committee believes that the "2.0 GPA Policy" should be reviewed.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 133 and recommends its adoption.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Bunda, Matsunaga).

SCRep. 2833 Education on S.C.R. No. 169

The purpose of this Concurrent Resolution is to request that the Board of Education (BOE) study, with a view towards modifying, its policy of requiring students to have a 2.0 grade point average (GPA) to qualify to participate in co-curricular activities.

The measure also requests that the BOE report on its findings and recommendations to the Legislature prior to the convening of the Regular Session of 1997.

Your Committee finds that the BOE has a policy for academic requirements for participation in co-curricular activities that states: "Students participating in co-curricular activities must have at least an overall 2.0 GPA and be passing in courses required for graduation". According to the BOE's "Guidelines for Implementing the Academic Requirements for Participation in Co-Curricular Activities", "participation" refers to official participation and does not include practices, rehearsals, and try-outs. Those guidelines further provide that a student deemed ineligible to participate in co-curricular

activities shall be granted probationary status, upon request, if that student's GPA is 1.6 or higher but less than 2.0 with only one F grade.

During probation, a student may practice but not participate ("non-official involvement") in a co-curricular activity, which means that the student may not play in preseason or season contests or be involved in proceedings such as club, class officer, school government, or special events meetings or activities.

Your Committee also finds that as participation in school sports fosters an interest to stay in school and provides motivation for students to keep up grades, the 2.0 policy may be too stringent for many student athletes. In light of the fact that many of Hawaii's high school students are on the brink of dropping out of school and have high absenteeism, your Committee believes that the "2.0 GPA Policy" should be reviewed.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 169 and recommends its adoption.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Bunda, Matsunaga).

SCRep. 2834 Education on S.R. No. 138

The purpose of this Resolution is to request the Department of Education (DOE) to administer the general education development examination for qualified individuals at age sixteen.

The general education development (GED) examination is administered by the DOE as an alternative method for obtaining a high school diploma through the Community School for Adults. Currently, the minimum age for the GED is seventeen for adults and sixteen for emancipated minors. This Resolution seeks to allow all sixteen-year-olds to take the GED upon withdrawal from regular high school.

Your Committee finds that the GED could be an effective alternative educational program for youths who reach the age of sixteen and have been excluded from regular school or are at-risk of dropping-out.

Your Committee received supporting testimony from the DOE.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 138 and recommends its adoption.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Bunda, Matsunaga).

SCRep. 2835 Education on S.C.R. No. 174

The purpose of this Concurrent Resolution is to request the Department of Education (DOE) to administer the general education development examination for qualified individuals at age sixteen.

The general education development (GED) examination is administered by the DOE as an alternative method for obtaining a high school diploma through the Community School for Adults. Currently, the minimum age for the GED is seventeen for adults and sixteen for emancipated minors. This Concurrent Resolution seeks to allow all sixteen-year-olds to take the GED upon withdrawal from regular high school.

Your Committee finds that the GED could be an effective alternative educational program for youths who reach the age of sixteen and have been excluded from regular school or are at-risk of dropping-out.

Your Committee received supporting testimony from the DOE.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 174 and recommends its adoption.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Bunda, Matsunaga).

SCRep. 2836 Education on S.C.R. No. 175

The purpose of this Concurrent Resolution is to request the Board of Education to review the school code and departmental administrative rules and revise them to conform with recent systemic reforms.

Your Committee finds that the Department of Education's rules and regulations need reviewing due to recent changes in school law and the impending recodification of Title 18, Hawaii Revised Statutes.

Your Committee has amended this measure by adding language that encourages the Board of Education to create a process similar to the statutory revision committee that includes the school/community-based management stakeholders.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 175, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 175, S.D. 1.

Signed by the Chairman on behalf of the Committee.

Ayes, 3. Noes, none. Excused, 2 (Bunda, Matsunaga).

SCRep. 2837 (Joint) Education and Judiciary on S.R. No. 144

The purpose of this Resolution is to request the Department of Education, together with other public and private sector agencies and organizations, to develop programs to prevent and eliminate violence in Hawaii's public schools.

Your Committees find that a safe and violence-free environment is critical to student learning and is a statewide goal of the Department of Education. Your Committees further find that the school administrators and staff should be given the flexibility to integrate violence prevention curriculum and programs into the schools which are appropriate to their specific student populations.

As affirmed by the records of votes of the members of your Committees on Education and Judiciary that are attached to this report, your Committees concur with the intent and purpose of S.R. No. 144 and recommend its adoption.

Signed by the Chairmen on behalf of the Committees.
Ayes, 6. Noes, none. Excused, 3 (Bunda, Matsuura, McCartney).

SCRep. 2838 (Joint) Education and Judiciary on S.C.R. No. 184

The purpose of this Concurrent Resolution is to request the Department of Education, together with other public and private sector agencies and organizations, to develop programs to prevent and eliminate violence in Hawaii's public schools.

Your Committees find that a safe and violence-free environment is critical to student learning and is a statewide goal of the Department of Education. Your Committees further find that the school administrators and staff should be given the flexibility to integrate violence prevention curriculum and programs into the schools which are appropriate to their specific student populations.

As affirmed by the records of votes of the members of your Committees on Education and Judiciary that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 184 and recommend its adoption.

Signed by the Chairmen on behalf of the Committees.
Ayes, 6. Noes, none. Excused, 3 (Bunda, Matsuura, McCartney).

SCRep. 2839 Education on S.R. No. 205

The purpose of this Resolution is to request that a public school on the Waianae Coast be named in honor of Herbert K. Pililaa, a resident of Waianae and the first Hawaii serviceman to receive the Congressional Medal of Honor.

Your Committee finds that often a community wishes to recognize an individual who brings honor and prestige to the community by placing their name in perpetuity upon a community landmark. Your Committee further finds that the naming of a public school on the Waianae Coast after such an important historical figure as Herbert K. Pililaa is an appropriate tribute to his contributions as a citizen and a role model for Hawaii's youth.

Upon further consideration, your Committee has amended this Resolution by requesting that the Board of Education, when the appropriate opportunity arises, consider naming a public school on the Waianae Coast after Herbert K. Pililaa.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 205, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 205, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Bunda, Matsunaga).

SCRep. 2840 Education on S.C.R. No. 255

The purpose of this Concurrent Resolution is to request that a public school on the Waianae Coast be named in honor of Herbert K. Pililaa, a resident of Waianae and the first Hawaii serviceman to receive the Congressional Medal of Honor.

Your Committee finds that often a community wishes to recognize an individual who brings honor and prestige to the community by placing their name in perpetuity upon a community landmark. Your Committee further finds that the naming of a public school on the Waianae Coast after such an important historical figure as Herbert K. Pililaa is an appropriate tribute to his contributions as a citizen and a role model for Hawaii's youth.

Upon further consideration, your Committee has amended this Concurrent Resolution by requesting that the Board of Education, when the appropriate opportunity arises, consider naming a public school on the Waianae Coast after Herbert K. Pililaa.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 255, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 255, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Bunda, Matsunaga).

SCRep. 2841 Education on S.R. No. 210

The purpose of this resolution is to request the Department of Education (DOE) to review the school inspection program and to improve the inspection criteria and process.

Act 369, Session Laws of Hawaii 1989 (section 296-39, Hawaii Revised Statutes), established the school inspection program to "maintain high levels of hygiene, sanitation and health, safety, maintenance, and physical appearance of each school for the benefit of students, administrators, and staff." Among the facilities subject to inspection are restrooms, cafeterias, locker rooms, and classrooms. The DOE has a volunteer inspection team for this purpose.

However, it has been brought to the attention of your Committee from team members that the inspection criteria are often not rigorously applied nor are unannounced inspections given full weight in the overall assessment. Furthermore, school staff and parents have commented that the results of the last inspection in the fall, though good, do not accurately reflect the actual needs of the schools for repairs and maintenance and other needed improvements. This resolution seeks to resolve these problems by requesting the DOE to review the school inspection program in consultation with the Departments of Health and Accounting and General Services, and to report accordingly to the legislature before the 1997 session.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 210 and recommends its adoption.

Signed by the Chairman on behalf of the Committee.

Ayes, 3. Noes, none. Excused, 2 (Bunda, Matsunaga).

SCRep. 2842 Education on S.C.R. No. 261

The purpose of this concurrent resolution is to request the Department of Education (DOE) to review the school inspection program and to improve the inspection criteria and process.

Act 369, Session Laws of Hawaii 1989 (section 296-39, Hawaii Revised Statutes), established the school inspection program to "maintain high levels of hygiene, sanitation and health, safety, maintenance, and physical appearance of each school for the benefit of students, administrators, and staff." Among the facilities subject to inspection are restrooms, cafeterias, locker rooms, and classrooms. The DOE has a volunteer inspection team for this purpose.

However, it has been brought to the attention of your Committee from team members that the inspection criteria are often not rigorously applied nor are unannounced inspections given full weight in the overall assessment. Furthermore, school staff and parents have commented that the results of the last inspection in the fall, though good, do not accurately reflect the actual needs of the schools for repairs and maintenance and other needed improvements. This concurrent resolution seeks to resolve these problems by requesting the DOE to review the school inspection program in consultation with the Departments of Health and Accounting and General Services, and to report accordingly to the legislature before the 1997 session.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 261 and recommends its adoption.

Signed by the Chairman on behalf of the Committee.

Ayes, 3. Noes, none. Excused, 2 (Bunda, Matsunaga).

SCRep. 2843 Education on S.R. No. 216

The purpose of this Resolution is to request that the Board of Education incorporate the concepts embodied in the "Five A Day For Better Health" program into its nutrition education programs.

Your Committee finds that the Department of Education is presently a member of the "Five A Day For Better Health" coalition and is planning to incorporate its messages into the health, home economics, and physical education courses. Your Committee further finds that the awareness about a proper diet provided through this program will hopefully contribute to improvement in a student's daily nutrition and healthy eating habits.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 216 and recommends its adoption.

Signed by the Chairman on behalf of the Committee.

Ayes, 3. Noes, none. Excused, 2 (Bunda, Matsunaga).

SCRep. 2844 Education on S.C.R. No. 269

The purpose of this Concurrent Resolution is to request that the Board of Education incorporate the concepts embodied in the "Five A Day For Better Health" program into its nutrition education programs.

Your Committee finds that the Department of Education is presently a member of the "Five A Day For Better Health" coalition and is planning to incorporate its messages into the health, home economics, and physical education courses. Your Committee further finds that the awareness about a proper diet provided through this program will hopefully contribute to improvement in a student's daily nutrition and healthy eating habits.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 269 and recommends its adoption.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Bunda, Matsunaga).

SCRep. 2845 Education on S.R. No. 225

The purpose of this Resolution is to request that the Governor release funds appropriated by the Legislature for the systematic hearing and vision program.

Your Committee finds that the education of children depends not only upon the educational environment and the quality of teaching, but also upon the ability of children to perceive through the senses what happens in the classroom. Without the adequate functioning of the critical senses of hearing and sight, a student in a regular classroom is placed in a predicament that is unjustifiable, especially because these problems are usually easily correctable.

Your Committee also finds that the Legislature, recognizing the critical importance of this program, established the systematic hearing and vision program statutorily in section 321-11, Hawaii Revised Statutes, to detect and identify hearing and vision deficiencies in school children and to follow-up with parents or guardians with diagnostic services and treatment. The Legislature also appropriated \$301,537 to operate the program for fiscal year 1995-1996.

The Governor, however, has restricted the expenditure of funds for the systematic hearing and vision program, so that, in effect, the program has been abolished.

While your Committee recognizes the severe fiscal constraints that have been placed upon the State, it believes that the systematic hearing and vision program has been proven to be effective and needed.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 225 and recommends its adoption.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Bunda, Matsunaga).

SCRep. 2846 Education on S.C.R. No. 283

The purpose of this Concurrent Resolution is to request that the Governor release funds appropriated by the Legislature for the systematic hearing and vision program.

Your Committee finds that the education of children depends not only upon the educational environment and the quality of teaching, but also upon the ability of children to perceive through the senses what happens in the classroom. Without the adequate functioning of the critical senses of hearing and sight, a student in a regular classroom is placed in a predicament that is unjustifiable, especially because these problems are usually easily correctable.

Your Committee also finds that the Legislature, recognizing the critical importance of this program, established the systematic hearing and vision program statutorily in section 321-11, Hawaii Revised Statutes, to detect and identify hearing and vision deficiencies in school children and to follow-up with parents or guardians with diagnostic services and treatment. The Legislature also appropriated \$301,537 to operate the program for fiscal year 1995-1996.

The Governor, however, has restricted the expenditure of funds for the systematic hearing and vision program, so that, in effect, the program has been abolished.

While your Committee recognizes the severe fiscal constraints that have been placed upon the State, it believes that the systematic hearing and vision program has been proven to be effective and needed.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 283 and recommends its adoption.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Bunda, Matsunaga).

SCRep. 2847 Communications and Public Utilities on S.R. No. 147

The purpose of this Resolution is to request the High Technology Development Corporation and the Department of Business, Economic Development, and Tourism to urge telecommunications providers to expedite completion of statewide fiberoptic installations and facilitate their efforts in whatever way possible.

Your Committee finds that recent telecommunications reform measures at the federal and state levels will encourage increased competition in all areas and sectors of the telecommunications marketplace and offer local jurisdictions the potential to extend the benefits of advanced services, such as the use of voice, high-speed data, images, graphics, and interactive media accessible through the information superhighway, to a broader range of consumers.

In Hawaii, the completion of a statewide fiberoptic network to bring a comparable level of advanced services to all communities, including those on the neighbor islands, is an important component (along with other components such as the establishment of a comprehensive universal service program) of the overall transition to a competitive telecommunications marketplace as required by Act 225, Hawaii's 1995 telecommunications reform measure.

Your Committee believes that the Public Utilities Commission has the opportunity in infrastructure Docket No. 7702, to implement Act 225 in a manner that takes full advantage of federal and state regulatory reforms and the broad array of emerging technologies to expand the range of advanced services and applications statewide.

Your Committee has therefore amended this measure by deleting the title and all other existing language and by substituting language requesting the Public Utilities Commission to submit a report to the Legislature detailing ways in which it will expand access to advanced telecommunication services.

As affirmed by the record of votes of the members of your Committee on Communications and Public Utilities that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 147, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 147, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Kanno, Matsuura, Liu).

SCRep. 2848 Communications and Public Utilities on S.C.R. No. 187

The purpose of this Concurrent Resolution is to request the High Technology Development Corporation and the Department of Business, Economic Development, and Tourism to urge telecommunications providers to expedite completion of statewide fiberoptic installations and facilitate their efforts in whatever way possible.

Your Committee finds that recent telecommunications reform measures at the federal and state levels will encourage increased competition in all areas and sectors of the telecommunications marketplace and offer local jurisdictions the potential to extend the benefits of advanced services, such as the use of voice, high-speed data, images, graphics, and interactive media accessible through the information superhighway, to a broader range of consumers.

In Hawaii, the completion of a statewide fiberoptic network to bring a comparable level of advanced services to all communities, including those on the neighbor islands, is an important component (along with other components such as the establishment of a comprehensive universal service program) of the overall transition to a competitive telecommunications marketplace as required by Act 225, Hawaii's 1995 telecommunications reform measure.

Your Committee believes that the Public Utilities Commission has the opportunity in infrastructure Docket No. 7702, to implement Act 225 in a manner that takes full advantage of federal and state regulatory reforms and the broad array of emerging technologies to expand the range of advanced services and applications statewide.

Your Committee has therefore amended this measure by deleting the title and all other existing language and by substituting language requesting the Public Utilities Commission to submit a report to the Legislature detailing ways in which it will expand access to advanced telecommunication services.

As affirmed by the record of votes of the members of your Committee on Communications and Public Utilities that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 187, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 187, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Kanno, Matsuura, Liu).

SCRep. 2849 Communications and Public Utilities on S.R. No. 154

The purpose of this Resolution is to request the Public Utilities Commission, the Land Use Commission, the Department of Commerce and Consumer Affairs, the Board of Land and Natural Resources, the Commission on Water Resource Management, the county Liquor Commissions, and the county Planning Commissions to cablecast selected agency proceedings of interest to the public on cable television public access channels with timely notice provided to the public.

Your Committee finds that with cable television reaching approximately ninety-three per cent of the households in the State, public access to government agencies can be significantly increased through cable television broadcasts of agency proceedings of interest.

Your Committee further finds that with the recent passage of federal and state telecommunications reform measures, the cable television arena will face increased competition, a broader range of cable and broadcast television technologies, and a potential decrease in cable franchise revenues. Therefore, your Committee believes that it is crucial to develop a comprehensive strategy to utilize the benefits of a competitive communications marketplace to preserve the high quality of PEG access and public television programming currently enjoyed in Hawaii and to otherwise maximize the use of enhanced cable and television capacity.

Your Committee has therefore amended this measure by deleting the title and all other existing language and by substituting language requesting the Department of Commerce and Consumer Affairs, in conjunction with public and PEG programming entities, to establish a strategic plan to ensure continued levels of high-quality PEG access and public television programming, expand distance learning capabilities and applications, transition Hawaii Public Television to a nonprofit organization, and otherwise maximize the use of enhanced cable and television capacity and enhance the statewide educational and government networking infrastructure.

As affirmed by the record of votes of the members of your Committee on Communications and Public Utilities that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 154, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 154, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Chumbley, Ihara, Kanno).

SCRep. 2850 Communications and Public Utilities on S.C.R. No. 195

The purpose of this Concurrent Resolution is to request the Public Utilities Commission, the Land Use Commission, the Department of Commerce and Consumer Affairs, the Board of Land and Natural Resources, the Commission on Water Resource Management, the county Liquor Commissions, and the county Planning Commissions to cablecast selected agency proceedings of interest to the public on cable television public access channels with timely notice provided to the public.

Your Committee finds that with cable television reaching approximately ninety-three per cent of the households in the State, public access to government agencies can be significantly increased through cable television broadcasts of agency proceedings of interest.

Your Committee further finds that with the recent passage of federal and state telecommunications reform measures, the cable television arena will face increased competition, a broader range of cable and broadcast television technologies, and a potential decrease in cable franchise revenues. Therefore, your Committee believes that it is crucial to develop a comprehensive strategy to utilize the benefits of a competitive communications marketplace to preserve the high quality of PEG access and public television programming currently enjoyed in Hawaii and to otherwise maximize the use of enhanced cable and television capacity.

Your Committee has therefore amended this measure by deleting the title and all other existing language and by substituting language requesting the Department of Commerce and Consumer Affairs, in conjunction with public and PEG programming entities, to establish a strategic plan to ensure continued levels of high-quality PEG access and public television programming, expand distance learning capabilities and applications, transition Hawaii Public Television to a nonprofit organization, and otherwise maximize the use of enhanced cable and television capacity and enhance the statewide educational and government networking infrastructure.

As affirmed by the record of votes of the members of your Committee on Communications and Public Utilities that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 195, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 195, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Chumbley, Ihara, Kanno).

SCRep. 2851 Communications and Public Utilities on S.R. No. 198

The purpose of this Resolution is to request Na Leo O Hawai'i to increase the number of individuals trained to provide additional public access programming.

Your Committee recognizes the cultural, educational, and historical importance of noncommercial public television programming and the worthy efforts of the Hawaii Public Broadcasting Authority (HPBA) in producing, and enabling the community to access, a broader mix of television programming than would be available from commercial and PEG access programming alone.

Your Committee finds that while the HPBA has recently experienced significant budgetary restrictions from state and federal sources, it is also facing significant infrastructure upgrade requirements. During these fiscally-constrained times, it has therefore become critical for the State to reevaluate the organization, operations, and funding sources of the HPBA to ensure continued levels of high-quality noncommercial public television programming.

Your Committee has therefore amended this measure by deleting the title and all other existing language and by substituting language requesting the Hawaii Public Broadcasting Authority to develop, in consultation with other public programming users, a strategic plan for becoming a community access licensee or other more suitable operational entity.

As affirmed by the record of votes of the members of your Committee on Communications and Public Utilities that is attached to this report, your Committee 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 the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Chumbley, Ihara, Kanno).

SCRep. 2852 Communications and Public Utilities on S.C.R. No. 246

The purpose of this Concurrent Resolution is to request Na Leo O Hawai'i to increase the number of individuals trained to provide additional public access programming.

Your Committee recognizes the cultural, educational, and historical importance of noncommercial public television programming and the worthy efforts of the Hawaii Public Broadcasting Authority (HPBA) in producing, and enabling the community to access, a broader mix of television programming than would be available from commercial and PEG access programming alone.

Your Committee finds that while the HPBA has recently experienced significant budgetary restrictions from state and federal sources, it is also facing significant infrastructure upgrade requirements. During these fiscally-constrained times, it has therefore become critical for the State to reevaluate the organization, operations, and funding sources of the HPBA to ensure continued levels of high-quality noncommercial public television programming.

Your Committee has therefore amended this measure by deleting the title and all other existing language and by substituting language requesting the Hawaii Public Broadcasting Authority to develop, in consultation with other public programming users, a strategic plan for becoming a community access licensee or other more suitable operational entity.

As affirmed by the record of votes of the members of your Committee on Communications and Public Utilities that is attached to this report, your Committee 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 the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Chumbley, Ihara, Kanno).

SCRep. 2853 Communications and Public Utilities on S.R. No. 199

The purpose of this Resolution is to urge cable television companies in the State to complete upgrades and fulfill other conditions under their franchise agreements to permit the dedication of additional public, education, and government (PEG) access channels.

Your Committee finds that each of the cable television companies doing business in the State is required under its franchise agreement with the State to devote channel space to PEG access, while the actual facilitating of the access is done by nonprofit cable access organizations, like 'Olelo for Oahu, Akaku for Maui, Ho'ike for Kauai, and Na Leo O Hawai'i for Hawaii.

Your Committee further finds that while these access organizations are supported through the collection of franchise fees from the cable operators, the Department of Commerce and Consumer Affairs has indicated to the access organizations that funding through franchise fees should not be viewed as permanent and that such organizations should be exploring alternative funding strategies.

Your Committee has therefore amended this measure by deleting the title and all other existing language except the first paragraph, and by substituting language requesting the Department of Commerce and Consumer Affairs to assist in devising a plan to assure the long-term viability of public, educational, and government access cable television in Hawaii.

As affirmed by the record of votes of the members of your Committee on Communications and Public Utilities that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 199, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 199, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Chumbley, Ihara, Kanno).

SCRep. 2854 Communications and Public Utilities on S.C.R. No. 247

The purpose of this Concurrent Resolution is to urge cable television companies in the State to complete upgrades and fulfill other conditions under their franchise agreements to permit the dedication of additional public, education, and government (PEG) access channels.

Your Committee finds that each of the cable television companies doing business in the State is required under its franchise agreement with the State to devote channel space to PEG access, while the actual facilitating of the access is done by nonprofit cable access organizations, like 'Olelo for Oahu, Akaku for Maui, Ho'ike for Kauai, and Na Leo O Hawai'i for Hawaii.

Your Committee further finds that while these access organizations are supported through the collection of franchise fees from the cable operators, the Department of Commerce and Consumer Affairs has indicated to the access organizations that funding through franchise fees should not be viewed as permanent and that such organizations should be exploring alternative funding strategies.

Your Committee has therefore amended this measure by deleting the title and all other existing language except the first paragraph, and by substituting language requesting the Department of Commerce and Consumer Affairs to assist in devising a plan to assure the long-term viability of public, educational, and government access cable television in Hawaii.

As affirmed by the record of votes of the members of your Committee on Communications and Public Utilities that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 247, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 247, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Chumbley, Ihara, Kanno).

SCRep. 2855 (Joint) Higher Education, Culture, and Arts and Economic Development on S.R. No. 30

The purpose of this Resolution is to request that the University of Hawaii Board of Regents develop a comprehensive, diversified, sustainable economic base plan for the County of Hawaii based on enhanced primary productivity using the expertise of the University of Hawaii.

Your Committees find that the development of a sustainable, more diversified economic base plan is vital for the County of Hawaii following the loss of sugar as a major economic base. It is consistent with the efforts of many community based economic development organizations including Hawaiian Homestead community associations, that the Office of Hawaiian Affairs has worked with on the island of Hawaii.

Your Committees received testimony in support of the Resolution from the Office of Hawaiian Affairs, and the County of Hawaii. In addition, testimony in support of the intent was received from the University of Hawaii.

Your Committee has amended the Resolution by removing specific references to all University campuses except the University of Hawaii at Hilo campus.

As affirmed by the records of votes of the members of your Committees on Higher Education, Culture, and Arts and Economic Development that are attached to this report, your Committees concur with the intent and purpose of S.R. No. 30, as amended herein, and recommend its adoption in the form attached hereto as S.R. No. 30, S.D. 1.

Signed by the Chairmen on behalf of the Committees.

Ayes, 6. Noes, none. Excused, 5 (Fernandes Salling, Ikeda, Iwase, Levin, Tam).

SCRep. 2856 (Joint) Higher Education, Culture, and Arts and Economic Development on S.C.R. No. 43

The purpose of this Concurrent Resolution is to request that the University of Hawaii Board of Regents develop a comprehensive, diversified, sustainable economic base plan for the County of Hawaii based on enhanced primary productivity using the expertise of the University of Hawaii.

Your Committees find that the development of a sustainable, more diversified economic base plan is vital for the County of Hawaii following the loss of sugar as a major economic base. It is consistent with the efforts of many community based economic development organizations including Hawaiian Homestead community associations, that the Office of Hawaiian Affairs has worked with on the island of Hawaii.

Your Committees received testimony in support of the Concurrent Resolution from the Office of Hawaiian Affairs, and the County of Hawaii. In addition, testimony in support of the intent was received from the University of Hawaii.

Your Committee has amended the Concurrent Resolution by removing specific references to all University campuses except the University of Hawaii at Hilo campus.

As affirmed by the records of votes of the members of your Committees on Higher Education, Culture, and Arts and Economic Development that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 43, as amended herein, and recommend its adoption in the form attached hereto as S.C.R. No. 43, S.D. 1.

Signed by the Chairmen on behalf of the Committees.

Ayes, 6. Noes, none. Excused, 5 (Fernandes Salling, Ikeda, Iwase, Levin, Tam).

SCRep. 2857 Higher Education, Culture, and Arts on S.R. No. 114

The purpose of this Resolution is to request the University of Hawaii Board of Regents to reassess its application for tuition assistance process to ensure that all qualified students who need financial assistance to complete their degrees will receive it.

Your Committee believes that the recent tuition increase will escalate the financial needs of students. Although the University will still be considered a bargain at 10 to 30 per cent below the average for comparable institutions in the western region, there will be many students and families for whom any increase will be a burden and mean additional sacrifice.

Your Committee received testimony in support of the Resolution from the Office of Hawaiian Affairs and the University of Hawaii.

Your Committee has amended the Resolution by adding a statement that describes the Board of Regent's previous five year tuition policy, and by requesting that the Board of Regents devise specific measures to ensure that the "gap group" is not forced to drop out of school due to the rise in tuition.

As affirmed by the record of votes of the members of your Committee on Higher Education, Culture, and Arts that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 114, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 114, S.D. 1.

Signed by the Chairman on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 2 (Fernandes Salling, Ikeda).

SCRep. 2858 Higher Education, Culture, and Arts on S.C.R. No. 145

The purpose of this Concurrent Resolution is to request the University of Hawaii Board of Regents to reassess its application for tuition assistance process to ensure that all qualified students who need financial assistance to complete their degrees will receive it.

Your Committee believes that the recent tuition increase will escalate the financial needs of students. Although the University will still be considered a bargain at 10 to 30 per cent below the average for comparable institutions in the western region, there will be many students and families for whom any increase will be a burden and mean additional sacrifice.

Your Committee received testimony in support of the Concurrent Resolution from the Office of Hawaiian Affairs and the University of Hawaii.

Your Committee has amended the Concurrent Resolution by adding a statement that describes the Board of Regent's previous five year tuition policy, and by requesting that the Board of Regents devise specific measures to ensure that the "gap group" is not forced to drop out of school due to the rise in tuition.

As affirmed by the record of votes of the members of your Committee on Higher Education, Culture, and Arts that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 145, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 145, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Fernandes Salling, Ikeda).

SCRep. 2859 Higher Education, Culture, and Arts on S.R. No. 214

The purpose of this Resolution is to request that the State Foundation on Culture and the Arts (SFCA) ensure that the full intent of S.C.R. No. 181, S.D. 1, H.D. 1, which was passed by the Legislature in 1995, is met, communication with members of arts communities throughout Hawaii are improved, and that meetings are open to all interested persons.

Your Committee finds that the SFCA's budget was reduced by over 60% during the 1995 fiscal year. The SFCA's 1997 fiscal year budget may again be reduced.

Your Committee believes that especially during a fiscal deficit, a strong communication link must be established between the SFCA, arts organizations, and individuals in the arts community for support, further communication dissemination, and to make the most of reduced resources.

Your Committee further finds that in compliance with S.C.R. No. 181, S.D. 1, H.D. 1, the SFCA addressed issues regarding expediting and communicating the grant process.

Your Committee notes that some non-profit organizations are troubled because often these organizations have events scheduled between July and December but cannot receive state funding for three to six months. The SFCA cannot award grants because it does not have the next fiscal year's budget information available at that time. Your Committee further notes that first grant payments are now dispatched much sooner than they were eight to ten years ago.

Your Committee has received testimony supporting the Resolution from the Kualoa-Heeia Ecumenical Youth Project, Hawaii Craftsmen, Ramsay Galleries, Waikiki Gallery, Inc., and various individuals. Your Committee also received testimony supporting the intent of the Resolution from the Department of Accounting and General Services and SFCA. Your Committee received testimony opposing the Resolution from Zinn & Associates who, along with the Honolulu Theatre for Youth, gave the SFCA their vote of confidence.

Your Committee has amended the Resolution by amending the title, deleting several incorrect provisions, adding facts regarding SFCA board meeting notices, and adding a provision requesting the SFCA to develop a strategic plan taking into account current funding deficits and including current telecommunication methods for dissemination of information.

As affirmed by the record of votes of the members of your Committee on Higher Education, Culture, and Arts that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 214, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 214, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Fernandes Salling, Ikeda).

SCRep. 2860 Higher Education, Culture, and Arts on S.C.R. No. 267

The purpose of this Concurrent Resolution is to request that the State Foundation on Culture and the Arts (SFCA) ensure that the full intent of S.C.R. No. 181, S.D. 1, H.D. 1, which was passed by the Legislature in 1995, is met, communication with members of arts communities throughout Hawaii are improved, and that meetings are open to all interested persons.

Your Committee finds that the SFCA's budget was reduced by over 60% during the 1995 fiscal year. The SFCA's 1997 fiscal year budget may again be reduced.

Your Committee believes that especially during a fiscal deficit, a strong communication link must be established between the SFCA, arts organizations, and individuals in the arts community for support, further communication dissemination, and to make the most of reduced resources.

Your Committee further finds that in compliance with S.C.R. No. 181, S.D. 1, H.D. 1, the SFCA addressed issues regarding expediting and communicating the grant process.

Your Committee notes that some non-profit organizations are troubled because often these organizations have events scheduled between July and December but cannot receive state funding for three to six months. The SFCA cannot award grants because it does not have the next fiscal year's budget information available at that time. Your Committee further notes that first grant payments are now dispatched much sooner than they were eight to ten years ago.

Your Committee has received testimony supporting the Concurrent Resolution from the Kualoa-Heeia Ecumenical Youth Project, Hawaii Craftsmen, Ramsay Galleries, Waikiki Gallery, Inc., and various individuals. Your Committee also received testimony supporting the intent of the Concurrent Resolution from the Department of Accounting and

General Services and SFCA. Your Committee received testimony opposing the Concurrent Resolution from Zinn & Associates who, along with the Honolulu Theatre for Youth, gave the SFCA their vote of confidence.

Your Committee has amended the Concurrent Resolution by amending the title, deleting several incorrect provisions, adding facts regarding SFCA board meeting notices, and adding a provision requesting the SFCA to develop a strategic plan taking into account current funding deficits and including current telecommunication methods for dissemination of information.

As affirmed by the record of votes of the members of your Committee on Higher Education, Culture, and Arts that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 267, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 267, S.D. 1.

Signed by the Chairman on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 2 (Fernandes Salling, Ikeda).

SCRep. 2861 Transportation and Government Affairs on S.C.R. No. 52

The purpose of this Concurrent Resolution is to request Hawaii's Congressional Delegation to take all possible steps to assure full participation by the United States in the work and financing of the United Nations.

Favorable testimony in support was received from the Hawaii Baha'i Community; Joanne Tachibana, United Nations Association Board Member; Dr. Gaye Christoffersen, President United Nations Association; the Honolulu Friends Meeting; M. James Wilkinson, Ambassador ret.; and a number of other private citizens.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 52 and recommends its adoption.

Signed by the Chairman on behalf of the Committee.

Ayes, 3. Noes, none. Excused, 2 (Tanaka, Taniguchi).

SCRep. 2862 Transportation and Government Affairs on S.R. No. 200

The purpose of this Resolution is to request that the Department of Hawaiian Home Lands (DHHL) discuss with the United States Department of Defense (DOD) the possibility of having United States military forces engage in the construction of infrastructure on Hawaiian Home Lands as part of their regular training operations, and to request that the State Department of Defense assist DHHL and act as a liaison between DHHL and DOD.

Favorable testimony was received from DHHL and the State Department of Defense.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 200 and recommends its adoption.

Signed by the Chairman on behalf of the Committee.

Ayes, 3. Noes, none. Excused, 2 (Tanaka, Taniguchi).

SCRep. 2863 Transportation and Government Affairs on S.C.R. No. 252

The purpose of this Concurrent Resolution is to request that the Department of Hawaiian Home Lands (DHHL) discuss with the United States Department of Defense (DOD) the possibility of having United States military forces engage in the construction of infrastructure on Hawaiian Home Lands as part of their regular training operations, and to request that the State Department of Defense assist DHHL and act as a liaison between DHHL and DOD.

Favorable testimony was received from DHHL and the State Department of Defense.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 252 and recommends its adoption.

Signed by the Chairman on behalf of the Committee.

Ayes, 3. Noes, none. Excused, 2 (Tanaka, Taniguchi).

SCRep. 2864 Transportation and Government Affairs on S.C.R. No. 263

The purpose of this Concurrent Resolution is to request that certain hotels on Kauai which were damaged by Hurricane Iniki make every effort to reopen. This measure further requests that Wailua Associates (Wailua), the owners of Coco Palms, and Aetna Casualty and Surety Company expeditiously resolve the disputed insurance claims so that Coco Palms may be reopened; and that the State and County of Kauai render such cooperation and assistance that is appropriate and lawful.

Favorable testimony was received from the Department of Defense, the County of Kauai, the Poipu Beach Resort Association, and Wailua Associates.

Your Committee has amended the Concurrent Resolution to express its concern over allegations of bad faith in the litigation between Wailua and Aetna and the need for all parties to act in good faith in order to resolve this dispute.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 263, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 263, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Tanaka, Taniguchi).

SCRep. 2865 Transportation and Government Affairs on S.R. No. 221

The purpose of this Resolution is to request the Board of Land and Natural Resources (Board) to review its policies and rules as they relate to lease rents for war veterans organizations to determine whether affordable rent structures can be established for the lease of public lands to such organizations for campsites or for youth athletics and educational activities.

Testimony in support of this bill was submitted by both the Department of Defense and the Board.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 221, S.D. 1, and recommends its adoption.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Tanaka, Taniguchi).

SCRep. 2866 Transportation and Government Affairs on S.C.R. No. 275

The purpose of this Concurrent Resolution is to request the Board of Land and Natural Resources (Board) to review its policies and rules as they relate to lease rents for war veterans organizations to determine whether affordable rent structures can be established for the lease of public lands to such organizations for campsites or for youth athletics and educational activities.

Testimony in support of this bill was submitted by both the Department of Defense and the Board.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 275, S.D. 1, and recommends its adoption.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Tanaka, Taniguchi).

SCRep. 2867 Transportation and Government Affairs on S.R. No. 39

The purpose of this Resolution is to request Hawaii's Congressional Delegation to take all possible steps to assure full participation by the United States in the work and financing of the United Nations.

Favorable testimony in support was received from the Hawaii Baha'i Community; Joanne Tachibana, United Nations Association Board Member; Dr. Gaye Christoffersen, President United Nations Association; the Honolulu Friends Meeting; M. James Wilkinson, Ambassador ret.; and a number of other private citizens.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 39 and recommends its adoption.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Tanaka, Taniguchi).

SCRep. 2868 Judiciary on S.R. No. 83

The purpose of this Resolution is to request the Department of Health to coordinate the development of standards and procedures governing decisions by parents or guardians to sterilize incapacitated minors.

Testimony in support of the Resolution was received from the State Planning Council on Developmental Disabilities, Department of Health, Commission on Persons with Disabilities, Hawaii Medical Association, and a concerned citizen.

Your Committee finds that current law in chapter 560, article 5, part 6, Hawaii Revised Statutes, requires an incapacitated adult ward who seeks sterilization to file a petition with the court and further requires the reproductive rights committee to review the petition and to make recommendations to the court.

Your Committee believes it is in the public interest to develop standards and guidelines in order to prevent forced sterilization and to protect the procreative capacity of incapacitated minors.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 83, S.D. 1, and recommends its adoption.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Matsunaga, Matsuura, McCartney).

SCRep. 2869 Judiciary on S.C.R. No. 111

The purpose of this Concurrent Resolution is to request the Department of Health to coordinate the development of standards and procedures governing decisions by parents or guardians to sterilize incapacitated minors.

Testimony in support of the Concurrent Resolution was received from the State Planning Council on Developmental Disabilities, Department of Health, Commission on Persons with Disabilities, Hawaii Medical Association, and a concerned citizen.

Your Committee finds that current law in chapter 560, article 5, part 6, Hawaii Revised Statutes, requires an incapacitated adult ward who seeks sterilization to file a petition with the court and further requires the reproductive rights committee to review the petition and to make recommendations to the court.

Your Committee believes it is in the public interest to develop standards and guidelines in order to prevent forced sterilization and to protect the procreative capacity of incapacitated minors.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 111, S.D. 1, and recommends its adoption.

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Matsunaga, Matsuura, McCartney).

SCRep. 2870 Judiciary on S.R. No. 226

The purpose of this Resolution is to request the Department of Health to form a panel to review the Hawaii Revised Statutes governing the confidentiality and allowable use of health care information to ascertain if there are sufficient safeguards to maintain the integrity of confidential health care information.

Your Committee believes that the increasing use of electronic information systems for health care information presents threats to individual privacy and confidentiality, and that our community is confronted with important issues related to the use and access of this information. Your Committee finds there is a need to investigate the issues surrounding the confidentiality of health care information and an individual's right to privacy in this area.

Your Committee further believes this Resolution will also enable both the public and various health care and information field professionals to thoroughly review these issues and develop specific recommendations that will preserve the confidentiality of this information, while allowing for the appropriate use of health care information.

Testimony in support of the resolution was received from the department of health, office of information practices, Hawaii Medical Service Association, Hawaii Health Information Corporation, Hemophilia Foundation of Hawaii, and the Hawaii Medical Association.

This Resolution was amended to include and specify that the office of information practices will assist the department of health in its review and to provide the director of the office of information practices with a certified copy of this Resolution.

This Resolution was also amended to remove the word "isolated" from the paragraph describing the current number of references contained within the Hawaii Revised Statutes concerning the use and protection of medical information. There are several references contained within the Hawaii Revised Statutes, and your Committee does not believe that the number of references can be described as "isolated".

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 226, S.D. 1, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 226, S.D. 2.

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Matsunaga, Matsuura, McCartney).

SCRep. 2871 Judiciary on S.C.R. No. 285

The purpose of this Concurrent Resolution is to request the Department of Health to form a panel to review the Hawaii Revised Statutes governing the confidentiality and allowable use of health care information to ascertain if there are sufficient safeguards to maintain the integrity of confidential health care information.

Your Committee believes that the increasing use of electronic information systems for health care information presents threats to individual privacy and confidentiality, and that our community is confronted with important issues related to the use and access of this information. Your Committee finds there is a need to investigate the issues surrounding the confidentiality of health care information and an individual's right to privacy in this area.

Your Committee further believes this Concurrent Resolution will also enable both the public and various health care and information field professionals to thoroughly review these issues and develop specific recommendations that will preserve the confidentiality of this information, while allowing for the appropriate use of health care information.

Testimony in support of the Concurrent Resolution was received from the department of health, office of information practices, Hawaii Medical Service Association, Hawaii Health Information Corporation, Hemophilia Foundation of Hawaii, and the Hawaii Medical Association.

This Concurrent Resolution was amended to include and specify that the office of information practices will assist the department of health in its review and to provide the director of the office of information practices with a certified copy of this Concurrent Resolution.

This Concurrent Resolution was also amended to remove the word "isolated" from the paragraph describing the current number of references contained within the Hawaii Revised Statutes concerning the use and protection of medical information. There are several references contained within the Hawaii Revised Statutes, and your Committee does not believe that the number of references can be described as "isolated".

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 285, S.D. 1, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 285, S.D. 2.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Matsunaga, Matsuura, McCartney).

SCRep. 2872 (Majority) Judiciary on S.R. No. 84

The purpose of this resolution is to request the Chief Justice of the Hawaii Supreme Court to address the Legislature on the State of the Judiciary.

Your Committee received testimony in support of this resolution from the Judiciary, the Hawaii State Trial Judges Association, the Hawaii State Bar Association, the Public Defender, Common Cause, and the American Judicature Society.

Your Committee is aware that the Chief Justice traditionally has given or published a yearly State of the Judiciary message to the Hawaii State Bar Association. However, your Committee believes that an address before the Legislature would provide an excellent opportunity and appropriate forum for the Judiciary to inform and educate both the Legislature and the public concerning the current state of the courts and the Judiciary's vision of the future direction and needs of the courts.

Your Committee finds that a State of the Judiciary message, particularly one including the Judiciary's administrative and budgetary needs, would foster better relations between the legislative and judicial branches of state government and lead to a better understanding of the problems and challenges faced by the Judiciary in its service to the public. Moreover, such an address would enable the Chief Justice to apprise all members of the Legislature and the general public about problems that require legislative action to improve the delivery of justice or to preserve and protect the integrity of the justice system.

Your Committee notes that State of the Judiciary messages are delivered to the state legislature or to legislative committees in twenty-one of the forty-four jurisdictions in which there are regular State of the Judiciary messages.

Your Committee has amended this resolution by:

- (1) Clarifying that the address by the Chief Justice would be before a joint session of the Legislature;
- (2) Deleting the existing third paragraph as well as references in the second paragraph concerning summaries of cases; and
- (3) Rewriting the whereas clauses to improve clarity and coherency;

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 84, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 84, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, 1 (Anderson). Excused, 1 (Tam).

SCRep. 2873 (Majority) Judiciary on S.C.R. No. 112

The purpose of this concurrent resolution is to request the Chief Justice of the Hawaii Supreme Court to address the Legislature on the State of the Judiciary.

Your Committee received testimony in support of this concurrent resolution from the Judiciary, the Hawaii State Trial Judges Association, the Hawaii State Bar Association, the Public Defender, Common Cause, and the American Judicature Society.

Your Committee is aware that the Chief Justice traditionally has given or published a yearly State of the Judiciary message to the Hawaii State Bar Association. However, your Committee believes that an address before the Legislature would provide an excellent opportunity and appropriate forum for the Judiciary to inform and educate both the Legislature and the public concerning the current state of the courts and the Judiciary's vision of the future direction and needs of the courts.

Your Committee finds that a State of the Judiciary message, particularly one including the Judiciary's administrative and budgetary needs, would foster better relations between the legislative and judicial branches of state government and lead to a better understanding of the problems and challenges faced by the Judiciary in its service to the public.

Moreover, such an address would enable the Chief Justice to apprise all members of the Legislature and the general public about problems that require legislative action to improve the delivery of justice or to preserve and protect the integrity of the justice system.

Your Committee notes that State of the Judiciary messages are delivered to the state legislature or to legislative committees in twenty-one of the forty-four jurisdictions in which there are regular State of the Judiciary messages.

Your Committee has amended this concurrent resolution by:

- (1) Clarifying that the address by the Chief Justice would be before a joint session of the Legislature;
- (2) Deleting the existing third paragraph as well as references in the second paragraph concerning summaries of cases; and
- (3) Rewriting the whereas clauses to improve clarity and coherency;

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 112, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 112, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, 1 (Anderson). Excused, 1 (Tam).

SCRep. 2874 Housing on S.R. No. 207

The purpose of this Resolution is to request the Hawaii Real Estate Research and Education Center to conduct a study of the substantive and procedural aspects of the regulatory structure of Hawaii's condominium law, and the rules of the Real Estate Commission, to determine the efficacy of amending them to reduce costs and risks to developers while ensuring that the public is protected against the loss of purchasers' funds and speculation in the initial sale of condominium projects.

The University of Hawaii testified in opposition to this Resolution stating that the Hawaii Real Estate Research and Education Center (HREREC) does not receive any general funds. The primary sources of funding for the Center come from the Real Estate Education Fund and the Condominium Management Education Fund administered by the Hawaii Real Estate Commission. These fund sources are under major budget constraints for the coming fiscal year. HREREC also has gone through restructuring of its organization and downsizing of its personnel. The subject matter of this Resolution would require resources for research and analysis, and unless the Commission expressly authorized the Center to expend time and other resources, the Center could not work on this project.

Testimony in support of this Resolution was submitted by the law firm of Carlsmith Ball Wichman Case & Ichiki, The Myers Corporation, and The Prudential Locations.

Testimony revealed that Hawaii's condominium law contains many important protections for condominium buyers. Parts of the condominium law, however, have become seriously outdated, causing increases to the cost of developing condominium housing which are then passed on to condominium buyers or hinder development. An example provided in the testimony is the current requirement that developers make significant expenditures for land acquisition, permits, and other development costs prior to the issuance of a final public report for a project. This requirement ignores the fact that financing for a project typically is not available until after a final public report has been issued and the purchase contracts of condominium purchasers have become legally binding. This forces developers to put significant amounts of their own funds at risk before they know that a project can go forward and creates a major development hurdle that many condominium developers are unwilling or unable to overcome.

Your Committee recognizes that portions of the condominium law are outdated in today's economic environment. A thorough review of the condominium law is necessary to preserve the valuable consumer protections it contains while updating its outdated restrictions and eliminating any unnecessary costs or hurdles to development.

Your Committee finds that for this measure to be truly effective active participation from the private sector is necessary. Therefore, your Committee has amended this measure by:

- (1) Requesting the Real Estate Commission to convene a private sector task force to develop proposals to reform the regulatory structure of Hawaii's condominium law;
- (2) Requesting that the task force be composed of condominium developers, real estate brokers, property managers, lenders, and other interested members of the private sector;
- (3) Requesting that the task force further study the substantive and procedural aspects of the regulatory structure of Hawaii's condominium law and the rules of the Real Estate Commission, and to propose legislation amending Hawaii's Condominium Property Act to reduce costs and risks to developers while maintaining provisions to ensure that the public is protected against the loss of purchasers' funds and speculation in the initial sale of condominium projects;
- (4) Requesting that the Real Estate Commission and the Department of Commerce and Consumer Affairs provide staff assistance, office space, and equipment, as may be necessary, for the use of the members of the task force;
- (5) Requesting that all other departments, agencies, and offices of the State cooperate with and provide assistance to the task force with respect to its study, as appropriate;

- (6) Requesting the task force to report its findings, recommendations, and proposed legislation to the Legislature no later than twenty days before the convening of the Regular Session of 1997;
- (7) Requesting that certified copies of this measure be transmitted to the Chairperson of the Real Estate Commission, the Director of the Hawaii Real Estate Research and Education Center; and the Director of Commerce and Consumer Affairs;
- (8) Amending its title to more accurately reflect the purpose of this measure, as amended; and
- (9) Making technical, nonsubstantive changes for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 207, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 207, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Taniguchi, Liu).

SCRep. 2875 Housing on S.C.R. No. 257

The purpose of this Concurrent Resolution is to request the Hawaii Real Estate Research and Education Center to conduct a study of the substantive and procedural aspects of the regulatory structure of Hawaii's condominium law, and the rules of the Real Estate Commission, to determine the efficacy of amending them to reduce costs and risks to developers while ensuring that the public is protected against the loss of purchasers' funds and speculation in the initial sale of condominium projects.

The University of Hawaii testified in opposition to this Concurrent Resolution stating that the Hawaii Real Estate Research and Education Center (HREREC) does not receive any general funds. The primary sources of funding for the Center come from the Real Estate Education Fund and the Condominium Management Education Fund administered by the Hawaii Real Estate Commission. These fund sources are under major budget constraints for the coming fiscal year. HREREC also has gone through restructuring of its organization and downsizing of its personnel. The subject matter of this Concurrent Resolution would require resources for research and analysis, and unless the Commission expressly authorized the Center to expend time and other resources, the Center could not work on this project.

Testimony in support of this Resolution was submitted by the law firm of Carlsmith Ball Wichman Case & Ichiki, The Myers Corporation, and The Prudential Locations.

Testimony revealed that Hawaii's condominium law contains many important protections for condominium buyers. Parts of the condominium law, however, have become seriously outdated, causing increases to the cost of developing condominium housing which are then passed on to condominium buyers or hinder development. An example provided in the testimony is the current requirement that developers make significant expenditures for land acquisition, permits, and other development costs prior to the issuance of a final public report for a project. This requirement ignores the fact that financing for a project typically is not available until after a final public report has been issued and the purchase contracts of condominium purchasers have become legally binding. This forces developers to put significant amounts of their own funds at risk before they know that a project can go forward and creates a major development hurdle that many condominium developers are unwilling or unable to overcome.

Your Committee recognizes that portions of the condominium law are outdated in today's economic environment. A thorough review of the condominium law is necessary to preserve the valuable consumer protections it contains while updating its outdated restrictions and eliminating any unnecessary costs or hurdles to development.

Your Committee finds that for this measure to be truly effective active participation from the private sector is necessary. Therefore, your Committee has amended this measure by:

- (1) Requesting the Real Estate Commission to convene a private sector task force to develop proposals to reform the regulatory structure of Hawaii's condominium law;
- (2) Requesting that the task force be composed of condominium developers, real estate brokers, property managers, lenders, and other interested members of the private sector;
- (3) Requesting that the task force further study the substantive and procedural aspects of the regulatory structure of Hawaii's condominium law and the rules of the Real Estate Commission, and to propose legislation amending Hawaii's Condominium Property Act to reduce costs and risks to developers while maintaining provisions to ensure that the public is protected against the loss of purchasers' funds and speculation in the initial sale of condominium projects;
- (4) Requesting that the Real Estate Commission and the Department of Commerce and Consumer Affairs provide staff assistance, office space, and equipment, as may be necessary, for the use of the members of the task force;
- (5) Requesting that all other departments, agencies, and offices of the State cooperate with and provide assistance to the task force with respect to its study, as appropriate;
- (6) Requesting the task force to report its findings, recommendations, and proposed legislation to the Legislature no later than twenty days before the convening of the Regular Session of 1997;

- (7) Requesting that certified copies of this measure be transmitted to the Chairperson of the Real Estate Commission, the Director of the Hawaii Real Estate Research and Education Center, and the Director of Commerce and Consumer Affairs;
- (8) Amending its title to more accurately reflect the purpose of this measure, as amended; and
- (9) Making technical, nonsubstantive changes for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 257, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 257, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Taniguchi, Liu).

SCRep. 2876 (Joint) Agriculture, Labor and Employment and Ways and Means on S.R. No. 118

The purpose of this Resolution is to request that the Auditor conduct a management audit of the Special Compensation Fund (Fund) to determine whether it may function more effectively and efficiently as a separate entity with its own administrator and staff devoted solely to its specific purposes, or placed in an administrative setting other than the Department of Labor and Industrial Relations (DLIR).

Your Committees find that the Special Compensation Fund established pursuant to Section 386-151, Hawaii Revised Statutes (HRS), is administratively placed with the DLIR and serves a wide range of critical functions in the State's Workers' Compensation program, including payment of benefits to employees and their beneficiaries, and reimbursements to employers, under a number of different circumstances that arise in the complex system established pursuant to Chapter 386, HRS. All moneys in the Fund are derived from assessments on employers or underwriters of Workers' Compensation policies in the State.

Although the Fund is administratively attached to the DLIR, the Director of Finance is custodian of the Fund. The Director of Finance cannot make any payments from the Fund without specific orders from the Director of Labor and Industrial Relations.

Your Committees also find that:

- (1) When an employer owes an amount to the Fund not specifically established by law, the Director of Labor and Industrial Relations makes the assessment and collects and deposits the amount into the Fund;
- (2) When an insurance company owes an amount to the Fund as a tax levy on Workers' Compensation policy premiums received, the Insurance Commissioner makes the collection which is then transmitted to the Director of Finance for deposit into the Fund; and
- (3) When self-insured employers such as the State or a county owe money to the Fund, the Director of Labor and Industrial Relations determines and collects the amount and makes the deposit, except that if a county is delinquent, the Director of Finance can withhold the amount from any money due to the county from the State.

Your Committees are mindful that the express purpose of the Fund is to ensure that regardless of the circumstances, injured workers or their beneficiaries will receive the compensation to which they are by law entitled. Your Committees believe that the existence of multiple jurisdictions and procedures currently associated with the administration of the Fund actually inhibit rather than facilitate timely collection of assessments and payment of benefits and therefore find the audit necessary.

As affirmed by the records of votes of the members of your Committees on Agriculture, Labor, and Employment and Ways and Means that are attached to this report, your Committees concur with the intent and purpose of S.R. No. 118 and recommend its adoption.

Signed by the Chairmen on behalf of the Committees.
Ayes, 8. Noes, none. Excused, 4 (Bunda, Fernandes Salling, Fukunaga, Anderson).

SCRep. 2877 (Joint) Agriculture, Labor and Employment and Ways and Means on S.C.R. No. 151

The purpose of this Concurrent Resolution is to request that the Auditor conduct a management audit of the Special Compensation Fund (Fund) to determine whether it may function more effectively and efficiently as a separate entity with its own administrator and staff devoted solely to its specific purposes, or placed in an administrative setting other than the Department of Labor and Industrial Relations (DLIR).

Your Committees find that the Special Compensation Fund established pursuant to Section 386-151, Hawaii Revised Statutes (HRS), is administratively placed with the DLIR and serves a wide range of critical functions in the State's Workers' Compensation program, including payment of benefits to employees and their beneficiaries, and reimbursements to employers, under a number of different circumstances that arise in the complex system established pursuant to Chapter 386, HRS. All moneys in the Fund are derived from assessments on employers or underwriters of Workers' Compensation policies in the State.

Although the Fund is administratively attached to the DLIR, the Director of Finance is custodian of the Fund. The Director of Finance cannot make any payments from the Fund without specific orders from the Director of Labor and Industrial Relations.

Your Committees also find that:

- (1) When an employer owes an amount to the Fund not specifically established by law, the Director of Labor and Industrial Relations makes the assessment and collects and deposits the amount into the Fund;
- (2) When an insurance company owes an amount to the Fund as a tax levy on Workers' Compensation policy premiums received, the Insurance Commissioner makes the collection which is then transmitted to the Director of Finance for deposit into the Fund; and
- (3) When self-insured employers such as the State or a county owe money to the Fund, the Director of Labor and Industrial Relations determines and collects the amount and makes the deposit, except that if a county is delinquent, the Director of Finance can withhold the amount from any money due to the county from the State.

Your Committees are mindful that the express purpose of the Fund is to ensure that regardless of the circumstances, injured workers or their beneficiaries will receive the compensation to which they are by law entitled. Your Committees believe that the existence of multiple jurisdictions and procedures currently associated with the administration of the Fund actually inhibit rather than facilitate timely collection of assessments and payment of benefits and therefore find the audit necessary.

As affirmed by the records of votes of the members of your Committees on Agriculture, Labor, and Employment and Ways and Means that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 151 and recommend its adoption.

Signed by the Chairmen on behalf of the Committees.

Ayes, 8. Noes, none. Excused, 4 (Bunda, Fernandes Salling, Fukunaga, Anderson).

SCRep. 2878 (Joint) Consumer Protection and Transportation and Government Affairs on S.R. No. 44

The purpose of this Resolution is to request the Governor to convene a task force to review the laws regulating the work of contractors.

Contractors are subject to state laws regulating their licensing and county laws regulating their work. Contractors contribute enormously to the State's economy in that the construction industry provides employment, pays taxes, and produces saleable products which may be bought and sold many times over, producing a multiplier effect. However, your Committees find that the multitude of restrictive and complicated state and county regulatory laws may be stifling this most valuable industry to the point where the laws could be harmful to the industry, particularly in the present economic downturn.

This Resolution requests that the task force study and determine whether the laws regulating the work of contractors are outdated, inconsistent, counterproductive, or overly burdensome, and that it report its findings to the Legislature before the 1997 Regular Session.

Your Committees have amended this measure to request that the Legislative Reference Bureau:

- (1) Recommend the appropriate scope and work plan for the establishment of a task force for the review and study of all government regulation of contractors and the building industry;
- (2) Consider tax incentives for contractors as provided in other states, such as Florida; and
- (3) Recommend guidelines for the composition of a task force to carry out the review and study.

Your Committees have made other necessary technical amendments.

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Transportation and Government Affairs that are attached to this report, your Committees concur with the intent and purpose of S.R. No. 44, as amended herein, and recommend its adoption in the form attached hereto as S.R. No. 44, S.D. 1.

Signed by the Chairmen on behalf of the Committees.

Ayes, 8. Noes, none. Excused, 3 (Aki, Iwase, Tanaka).

SCRep. 2879 (Joint) Consumer Protection and Transportation and Government Affairs on S.C.R. No. 57

The purpose of this Concurrent Resolution is to request the Governor to convene a task force to review the laws regulating the work of contractors.

Contractors are subject to state laws regulating their licensing and county laws regulating their work. Contractors contribute enormously to the State's economy in that the construction industry provides employment, pays taxes, and produces saleable products which may be bought and sold many times over, producing a multiplier effect. However, your Committees find that the multitude of restrictive and complicated state and county regulatory laws may be stifling this most valuable industry to the point where the laws could be harmful to the industry, particularly in the present economic downturn.

This Concurrent Resolution requests that the task force study and determine whether the laws regulating the work of contractors are outdated, inconsistent, counterproductive, or overly burdensome, and that it report its findings to the Legislature before the 1997 Regular Session.

Your Committees have amended this measure to request that the Legislative Reference Bureau:

- (1) Recommend the appropriate scope and work plan for the establishment of a task force for the review and study of all government regulation of contractors and the building industry;
- (2) Consider tax incentives for contractors as provided in other states, such as Florida; and
- (3) Recommend guidelines for the composition of a task force to carry out the review and study.

Your Committees have made other necessary technical amendments.

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Transportation and Government Affairs that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 57, as amended herein, and recommend its adoption in the form attached hereto as S.C.R. No. 57, S.D. 1.

Signed by the Chairmen on behalf of the Committees.
Ayes, 8. Noes, none. Excused, 3 (Aki, Iwase, Tanaka).

SCRep. 2880 (Joint) Transportation and Government Affairs and Agriculture, Labor and Employment on S.R. No. 146

The purpose of this Resolution is to request the Department of Transportation (DOT) in conjunction with the Department of Business, Economic Development, and Tourism (DBEDT) act to preserve the benefit of the Jones Act, which requires shipping between Hawaii and the West Coast be on United States flagged vessels, by urging Matson Navigation Company (Matson) and the Cattleman's Council (Council) to respond to the changed conditions in the market for Hawaii cattle by working cooperatively to develop a plan that conforms to the Jones Act for the shipping of cattle to the West Coast of the mainland.

Testimony in support was received from DOT, DBEDT, Matson, the Council, the Hawaii Farm Bureau, the Hawaii Island Cattlemen's Association, the Transportation Institute, the Onomea Cattle Company, SeaLand, the Seafarers International Union, and the Hawaii Cattlemen's Council.

Your Committees have amended this Resolution by requiring that the report to the Legislature be done by both DOT and DBEDT; and to provide that adoption of this Resolution shall not prejudice other solutions.

As affirmed by the records of votes of the members of your Committees on Transportation and Government Affairs and Agriculture, Labor, and Employment that are attached to this report, your Committees 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 the Chairmen on behalf of the Committees.
Ayes, 4. Noes, none. Excused, 2 (Baker, Tanaka).

SCRep. 2881 (Joint) Transportation and Government Affairs and Agriculture, Labor and Employment on S.C.R. No. 186

The purpose of this Concurrent Resolution is to request the Department of Transportation (DOT) in conjunction with the Department of Business, Economic Development, and Tourism (DBEDT) act to preserve the benefit of the Jones Act, which requires shipping between Hawaii and the West Coast be on United States flagged vessels, by urging Matson Navigation Company (Matson) and the Cattleman's Council (Council) to respond to the changed conditions in the market for Hawaii cattle by working cooperatively to develop a plan that conforms to the Jones Act for the shipping of cattle to the West Coast of the mainland.

Testimony in support was received from DOT, DBEDT, Matson, the Council, the Hawaii Farm Bureau, the Hawaii Island Cattlemen's Association, the Transportation Institute, the Onomea Cattle Company, SeaLand, the Seafarers International Union, and the Hawaii Cattlemen's Council.

Your Committees have amended this Concurrent Resolution by requiring that the report to the Legislature be done by both DOT and DBEDT; and to provide that adoption of this Concurrent Resolution shall not prejudice other solutions.

As affirmed by the records of votes of the members of your Committees on Transportation and Government Affairs and Agriculture, Labor, and Employment that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 186, as amended herein, and recommend its adoption in the form attached hereto as S.C.R. No. 186, S.D. 1.

Signed by the Chairmen on behalf of the Committees.
Ayes, 5. Noes, none. Excused, 2 (Baker, Tanaka).

SCRep. 2882 (Joint) Transportation and Government Affairs and Human Services on S.R. No. 166

The purpose of this Resolution is to request the Department of Transportation (DOT) to convene a task force to develop a volunteer parking enforcement program.

Favorable testimony was received from DOT, the Commission on Persons With Disabilities (Commission), and Art Frank. The Commission suggested that the task force, rather than be required to develop an enforcement program, make recommendations as to whether, and how, to implement a volunteer parking enforcement program.

Your Committees have amended this Resolution by:

- (1) Requesting the task force to make recommendations as to whether, and how to implement a volunteer parking program;
- (2) Requesting the task force to propose, rather than develop, a viable funding mechanism to maintain a self-supporting program for parking enforcement by:
 - (a) Examining the feasibility of increasing fines for violations of handicapped parking; and
 - (b) Using private citizens as volunteers, or hiring independent contractors paid a percentage of the fine on a per violation basis;
- (3) Deleting representatives of each of the county transportation departments as members of the task force, and instead appointing representatives of the police departments of each county as members of the task force;
- (4) Amending the title to reflect more accurately the purpose of the Resolution as amended; and
- (5) Making other nonsubstantive changes for purposes of style and clarity.

As affirmed by the records of votes of the members of your Committees on Transportation and Government Affairs and Human Services that are attached to this report, your Committees concur with the intent and purpose of S.R. No. 166, as amended herein, and recommend its adoption in the form attached hereto as S.R. No. 166, S.D. 1.

Signed by the Chairmen on behalf of the Committees.
Ayes, 7. Noes, none. Excused, 2 (Ihara, Anderson).

SCRep. 2883 (Joint) Transportation and Government Affairs and Human Services on S.C.R. No. 208

The purpose of this Concurrent Resolution is to request the Department of Transportation (DOT) to convene a task force to develop a volunteer parking enforcement program.

Favorable testimony was received from DOT, the Commission on Persons With Disabilities (Commission), and Art Frank. The Commission suggested that the task force, rather than be required to develop an enforcement program, make recommendations as to whether, and how, to implement a volunteer parking enforcement program.

Your Committees have amended this Concurrent Resolution by:

- (1) Requesting the task force to make recommendations as to whether, and how to implement a volunteer parking program;
- (2) Requesting the task force to propose, rather than develop, a viable funding mechanism to maintain a self-supporting program for parking enforcement by:
 - (a) Examining the feasibility of increasing fines for violations of handicapped parking; and
 - (b) Using private citizens as volunteers, or hiring independent contractors paid a percentage of the fine on a per violation basis;
- (3) Deleting representatives of each of the county transportation departments as members of the task force, and instead appointing representatives of the police departments of each county as members of the task force;
- (4) Amending the title to reflect more accurately the purpose of the Concurrent Resolution as amended; and
- (5) Making other nonsubstantive changes for purposes of style and clarity.

As affirmed by the records of votes of the members of your Committees on Transportation and Government Affairs and Human Services that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 208, as amended herein, and recommend its adoption in the form attached hereto as S.C.R. No. 208, S.D. 1.

Signed by the Chairmen on behalf of the Committees.
Ayes, 7. Noes, none. Excused, 2 (Ihara, Anderson).

SCRep. 2884 (Joint) Transportation and Government Affairs and Ways and Means on S.R. No. 201

The purpose of this Resolution is to request the Department of Transportation to form a task force to develop a plan to meet Keahole Airport's anticipated fuel demands which shall include consideration of alternatives to bringing in and storing the fuel.

Testimony in support of the bill was received from the Department of Transportation (DOT), and the Hawaii Fueling Facilities Corporation (HFFC). Your Committees learned through the testimony that DOT and HFFC have an agreement for the construction and operation of fuel facilities at neighbor island airports; and the HFFC is looking into development of on-airport jet fuel facilities at Keahole Airport, and would like to be involved with the development of the off-airport delivery system.

Your Committees have amended this Resolution to expressly provide that a copy be transmitted to the HFFC.

As affirmed by the records of votes of the members of your Committees on Transportation and Government Affairs and Ways and Means that are attached to this report, your Committees concur with the intent and purpose of S.R. No. 201, as amended herein, and recommend its adoption in the form attached hereto as S.R. No. 201, S.D. 1.

Signed by the Chairmen on behalf of the Committees.
Ayes, 10. Noes, none. Excused, 2 (Ikeda, Kanno).

SCRep. 2885 (Joint) Transportation and Government Affairs and Ways and Means on S.C.R. No. 253

The purpose of this Concurrent Resolution is to request the Department of Transportation to form a task force to develop a plan to meet Keahole Airport's anticipated fuel demands which shall include consideration of alternatives to bringing in and storing the fuel.

Testimony in support of the bill was received from the Department of Transportation (DOT), and the Hawaii Fueling Facilities Corporation (HFFC). Your Committees learned through the testimony that DOT and HFFC have an agreement for the construction and operation of fuel facilities at neighbor island airports; and the HFFC is looking into development of on-airport jet fuel facilities at Keahole Airport, and would like to be involved with the development of the off-airport delivery system.

Your Committees have amended this Concurrent Resolution to expressly provide that a copy be transmitted to the HFFC.

As affirmed by the records of votes of the members of your Committees on Transportation and Government Affairs and Ways and Means that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 253, as amended herein, and recommend its adoption in the form attached hereto as S.C.R. No. 253, S.D. 1.

Signed by the Chairmen on behalf of the Committees.
Ayes, 10. Noes, none. Excused, 2 (Ikeda, Kanno).

SCRep. 2886 (Joint) Education and Communications and Public Utilities on S.C.R. No. 66

The purpose of this Concurrent Resolution is to urge all schools to utilize computer technology to promote and improve communications within the educational system.

Your Committees find that an on-line student communication network will not only serve as a superior and cost-effective information network, but also as an educational resource that will inspire and motivate students to learn.

As affirmed by the records of votes of the members of your Committees on Education and Communications and Public Utilities that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 66 and recommend its adoption.

Signed by the Chairmen on behalf of the Committees.
Ayes, 7. Noes, none. Excused, 4 (Bunda, Kanno, Matsuura, Liu).

SCRep. 2887 (Joint) Health and Hawaiian Affairs on S.R. No. 150

The purpose of this Resolution is to request the Department of Health, the Department of Human Services, the Department of Hawaiian Home Lands, the Office of Hawaiian Affairs, and the University of Hawai'i each, with the inclusion of information collected and offered by other groups such as Papa Ola Lokahi, E Ola Mau, and Alu Like, to report how they are supporting and collaborating with the Native Hawaiian Health Care Systems to improve the health status of Hawaiians in the State of Hawai'i; and to report their progress to the Legislature twenty days prior to the convening of the Regular Session of 1997.

Your Committees adopted the recommendation of the Director of Health to address this measure to Papa Ola Lokahi as the appropriate coordinating organization in the collaborative effort.

Your Committees amended this measure and its title by substituting Papa Ola Lokahi in place of the Department of Health as the lead organization responsible for reporting on the collaborative effort of all the agencies and organizations participating with the Native Hawaiian Health Care Systems; and by requesting a report only from Papa Ola Lokahi instead of all of the participating state agencies. Your Committees also made technical, nonsubstantive changes for purposes of style, conformity, and clarity.

As affirmed by the records of votes of the members of your Committees on Health and Hawaiian Affairs that are attached to this report, your Committees concur with the intent and purpose of S.R. No. 150, as amended herein, and recommend its adoption in the form attached hereto as S.R. No. 150, S.D. 1.

Signed by the Chairmen on behalf of the Committees.
Ayes, 5. Noes, none. Excused, 2 (Kawamoto, Graulty).

SCRep. 2888 Executive and Judicial Appointments on Gov. Msg. Nos. 194, 195 and 196

Recommending that the Senate advise and consent to the nominations of the following:

GEORGINA KAWAMURA to the Kaho'olawe Island Reserve Commission, term to expire June 30, 1999 (Gov. Msg. No. 194);

NALANI KANAKAOLE and COLETTE Y. MACHADO to the Kaho'olawe Island Reserve Commission, terms to expire June 30, 2000 (Gov. Msg. No. 194);

LAWRENCE N.C. ING to the Land Use Commission, term to expire June 30, 2000 (Gov. Msg. No. 195); and

ROBERT A. KINZIE III, Ph.D. and DONALD W. REESER to the Natural Area Reserves System Commission, terms to expire June 30, 2000 (Gov. Msg. No. 196).

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Bunda, Fernandes Salling, Liu).

SCRep. 2889 Executive and Judicial Appointments on Gov. Msg. Nos. 244, 245, 246 and 247

Recommending that the Senate advise and consent to the nominations of the following:

JUDY D. BISGARD, DIANE N. DODS and ETHEL ALIKPALA WARD to the State Foundation on Culture and the Arts, terms to expire June 30, 2000 (Gov. Msg. No. 244);

ELIZABETH M. ADAMS, M.D., and MATTHEW A. IKEDA, M.D., to the Drug Product Selection Board, terms to expire June 30, 2000 (Gov. Msg. No. 245);

RAYMOND S. TABATA, BARBARA M. ROBESON, ARNOLD L. LUM, HARLAN H. HASHIMOTO, Ph.D., and PATRICIA TUMMONS to the Environmental Council, terms to expire June 30, 2000 (Gov. Msg. No. 246); and

MARGARET NIELSEN, LAURA G. MANIS, CRAIG KADOOKA, M.D., and SARAJEAN A. TOKUNAGA to the Statewide Health Coordinating Council, terms to expire June 30, 2000 (Gov. Msg. No. 247),

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Fernandes Salling).

SCRep. 2890 Executive and Judicial Appointments on Gov. Msg. Nos. 225 and 234

Recommending that the Senate advise and consent to the nominations of the following:

WONDA MAE AGPALSA and KAREN M. HOLT to the Hawaiian Homes Commission, terms to expire June 30, 2000 (Gov. Msg. No. 225); and

EDWARD K. HAMADA, ROSS K. KAGAWA and MICHAEL JAY GREEN to the Stadium Authority, terms to expire June 30, 2000 (Gov. Msg. No. 234).

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Bunda, Fernandes Salling, Liu).

SCRep. 2891 Executive and Judicial Appointments on Gov. Msg. Nos. 257, 258, 259 and 260

Recommending that the Senate advise and consent to the nominations of the following:

MILES M. JACKSON, Ph.D., and OLGA RUTH SNIFFEN to the Oahu Library Advisory Commission, terms to expire June 30, 2000 (Gov. Msg. No. 257);

KALOA R.N. ROBINSON, CHARLES E. OLIVER, ANNETTE FELIX and MARGARET A. DON to the Hawaii Library Advisory Commission, terms to expire June 30, 2000 (Gov. Msg. No. 258);

JESUS S. GUIRAO, FAY H. SADAMITSU and JEAN M. DOBASHI to the Kauai Library Advisory Commission, terms to expire June 30, 2000 (Gov. Msg. No. 259);

MARVIN SHREWSBURY to the Maui County Library Advisory Commission, term to expire June 30, 1998 (Gov. Msg. No. 260);

THELMA MASUSAKO to the Maui County Library Advisory Commission, term to expire June 30, 1999 (Gov. Msg. No. 260); and

HARVEY STEWART JANIS, MARK GRAVEN, MORRIS H. HAOLE JR. and DONNA MARIE LEE to the Maui County Library Advisory Commission, terms to expire June 30, 2000 (Gov. Msg. No. 260).

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Fernandes Salling, Graulty).

SCRep. 2892 Executive and Judicial Appointments on Gov. Msg. No. 285

Recommending that the Senate advise and consent to the nominations of the following:

ALTON T. KUIOKA to the Convention Center Authority, term to expire June 30, 1999; and

GUY K. FUJIMURA, JENAI SULLIVAN WALL, and MARK FUKUNAGA to the Convention Center Authority, terms to expire June 30, 2000.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Bunda).

SCRep. 2893 Executive and Judicial Appointments on Gov. Msg. Nos. 284, 286 and 287

Recommending that the Senate advise and consent to the nominations of the following:

R.P. BUCK SCHIPA to the Contractors License Board, terms to expire June 30, 1997 (Gov. Msg. No. 284);

NICK W. TEVES, JR., MELVYN T. KANAI, and BERNARD T. MIURA to the Contractors License Board, terms to expire June 30, 2000 (Gov. Msg. No. 284);

HARLOW URABE to the Correctional Industries Advisory Committee, term to expire June 30, 1997 (Gov. Msg. No. 286);

CARL ANDERSON, LYNETTE CRUZ, and BERTHA S.J. NAHOPII to the Correctional Industries Advisory Committee, terms to expire June 30, 1998 (Gov. Msg. No. 286);

GEORGE M. YASUMOTO to the Board of Trustees, Deferred Compensation Plan, term to expire June 30, 1997 (Gov. Msg. No. 287);

RONALD N. HIRANO to the Board of Trustees, Deferred Compensation Plan, term to expire June 30, 1998 (Gov. Msg. No. 287); and

LLOYD Y. KIMURA to the Board of Trustees, Deferred Compensation Plan, term to expire June 30, 2000 (Gov. Msg. No. 287).

Signed by the Chairman on behalf of the Committee.
(Gov. Msg. No. 284): Ayes, 7. Noes, none. Excused, none.
(Gov. Msg. Nos. 286, 287): Ayes, 5. Noes, none. Excused, 2 (Fernandes Salling, Grauly).

SCRep. 2894 Human Services on H.C.R. No. 61

The purpose of this Concurrent Resolution is to affirm the need for a public-private program to adhere to certain principles of long-term care to address the long-term care needs of residents of Hawaii.

Your Committee finds that the elderly population of Hawaii is increasing at a rate two and one-half times the national average, including the proportion of elderly persons, who will eventually need long-term care for which there is presently a critical shortage. This Concurrent Resolution establishes a principle that long-term care in Hawaii should be addressed by a public-private program that meets the principles of long-term care as stated in the Concurrent Resolution.

Your Committee further finds that it is not financially feasible for the State to undertake this effort on its own and that a joint cooperative effort with the private sector is necessary to realize meaningful results. Furthermore, the delivery of long-term care services in Hawaii tends to be fragmented. This Concurrent Resolution promotes an organized and systematic approach to the delivery of those services with the goal of delivering quality, affordable care in all forms and at all levels for the elderly citizens.

Your Committee received supporting testimony from the State Executive Office on Aging, the Department of Human Services, the Hawaii Long Term Care Association, the American Association of Retired Persons, the Hawaii Long-Term Care Reform Task Force, the Hemophilia Foundation of Hawaii, and the Healthcare Association of Hawaii.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 61 and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Aki).

SCRep. 2895 Human Services on H.C.R. No. 84

The purpose of this concurrent resolution is to request the Family Health Division of the Department of Health (DOH) to convene an interagency task force (task force) on food and nutrition assistance.

The task force would coordinate activities relating to food and nutrition among various government agencies and private entities with functions in this area, such as the DOH, Department of Education, Department of Agriculture, state and county food assistance programs, food service industry, foodbanks, and the University of Hawaii.

Your Committee finds that a task force would improve the effectiveness, efficiency, and coordination of federal food assistance programs, in view of the current federal budget restrictions on programs such as the Food Stamp Program, School Breakfast and Lunch Programs, Special Supplemental Nutrition Program for Women, Infants, and Children, and Aid to Families with Dependent Children.

Your Committee has amended this concurrent resolution by extending from 1997 to 1998 the session in which the report to the legislature is to be made, in order to allow more time for the task force to organize and to complete its mission.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 84, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Ways and Means, in the form attached hereto as H.C.R. No. 84, H.D. 1, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Aki).

SCRep. 2896 Human Services on H.C.R. No. 157

The purpose of this concurrent resolution is to request a study to determine how to improve pre-vocational and vocational services for the deaf and hard of hearing persons within the Department of Human Services (DOH).

Your Committee finds that services to the deaf should be augmented and supported to a comparable level of services to the blind, which far exceeds services to the deaf. The result of this benign neglect is that the deaf and hard of hearing go largely ignored in our society, with all the attendant consequence of alienation and isolation. This concurrent resolution seeks to rectify this situation.

Your Committee notes that last year's budget cut the funding for a single position in the DOH to provide services to the deaf and the hard of hearing. Your Committee wishes to express its desire that the budget for this year restore that one position.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 157, H.D. 1, and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Aki).

SCRep. 2897 (Joint) Human Services and Education on H.C.R. No. 5

The purpose of this Concurrent Resolution is to request the Board of Education, the City and County of Honolulu, and the Kaimuki Neighborhood Board No. 4 to assist in identifying and securing a site to establish a community/senior citizen center for the Kaimuki community.

Your Committees find that the Kaimuki community, unlike other stable, family-oriented neighborhoods on Oahu, does not enjoy the use of a public facility dedicated exclusively to meeting the needs of the neighborhood's senior citizen population, which is proportionately large compared to other communities. Your Committees believe that a community/senior citizen center for Kaimuki would fulfill a much-needed and long-awaited facility for serving this population.

Your Committees have amended this Concurrent Resolution by deleting all references to the Board of Education, since this was the intention in the House draft.

As affirmed by the records of votes of the members of your Committees on Human Services and Education that are attached to this report, your Committees concur with the intent and purpose of H.C.R. No. 5, H.D. 1, as amended herein, and recommend that it be referred to the Committee on Ways and Means, in the form attached hereto as H.C.R. No. 5, H.D. 1, S.D. 1.

Signed by the Chairmen on behalf of the Committees.
Ayes, 6. Noes, none. Excused, 3 (Aki, Bunda, Tam).

SCRep. 2898 (Joint) Higher Education, Culture, and Arts and Agriculture, Labor and Employment on H.C.R. No. 276

The purpose of this Concurrent Resolution is to request the Legislative Auditor to work with the University of Hawaii Professional Assembly to obtain a cost-effective actuary to conduct a feasibility study for an optional retirement plan for University of Hawaii employees.

Specifically this measure requests that the study include:

- (1) The impact on the current employee's retirement system and its members;
- (2) Comparable plans and experiences in other states including employer and employee contribution rates, vesting periods, and eligibility requirements for public employees;
- (3) Identification of public policy issues and future costs to the State; and
- (4) Recommendations regarding an appropriate employer contribution for the State under an optional retirement plan, including among other things employee eligibility and vesting;

Your Committees find that it is standard operating procedure among the more than one thousand private and seven hundred public colleges and universities that compete for academic talent with the University of Hawaii to have an optional defined contribution retirement plan (ORP).

Your Committees further find that the University of Hawaii's current retirement plan is below the norm for universities of this caliber. In addition, Hawaii's cost of living is among the highest in the nation. Prospective faculty have indicated that coming to the University of Hawaii would be tantamount to taking a ten percent cut in pay.

Your Committees believe that an ORP is a critical recruitment tool which is unique to this profession. Portable ORPs for faculty who are in demand and travel from institution to institution is the norm in the United States, Europe, and Japan.

However, members of your Committees expressed concern about public employees in other collective bargaining units seeking equal treatment. Your Committees, therefore, request that the Legislative Auditor examine the appropriateness and applicability of similar optional retirement plans to other public employees in the different bargaining units, and include these findings in her review.

Your Committees received testimony in support of this Concurrent Resolution from the University of Hawaii and the University of Hawaii Professional Assembly.

As affirmed by the records of votes of the members of your Committees on Higher Education, Culture, and Arts and Agriculture, Labor, and Employment that are attached to this report, your Committees concur with the intent and purpose of H.C.R. No. 276, H.D. 1, and recommend that it be referred to the Committee on Ways and Means.

Signed by the Chairmen on behalf of the Committees.

Ayes, 7. Noes, none. Excused, 4 (Baker, Fernandes Salling, McCartney, Taniguchi, Baker).

SCRep. 2899 (Joint) Higher Education, Culture, and Arts and Economic Development on H.C.R. No. 112

The purposes of this Concurrent Resolution are to:

- (1) Strongly support and convey its deep appreciation to the East-West Center for its contributions to the economic, educational, and intellectual life of the State of Hawaii;
- (2) Encourage the East-West Center to capitalize on its proven conference and research capabilities by expanding and intensifying its involvement in international commercial issues and relations; and
- (3) Request that the University of Hawaii, appropriate state departments, the Chamber of Commerce, the Hawaii Visitors Bureau, and other concerned organizations assist the East-West Center in its involvement in international commercial issues and relations.

Your Committees find that the East-West Center has been a key institution over the past thirty-five years in promoting and strengthening relations between the United States and the Asia-Pacific region. Your Committees believe that the United States Congress had the foresight to envision Hawaii to be the center for cultural and technical interchange with the Asia-Pacific region.

Your Committees further find that the East-West Center was a conduit for technical aid and a repository of skills and knowledge that was sorely needed in Asia's development process, a place where joint research was undertaken with scholars around the region during Asia's growing competence, and now can serve as an active and contributing participant in defining international business, economic cooperation, and commerce issues that are now before the Asia-Pacific region.

Your Committees further find that the University of Hawaii College of Business Administration Asia-Pacific Center for Executive Development recently held its management training programs for Korean Airlines at the East-West Center. The facilities created a highly professional and quality learning environment for the approximately three hundred management trainees who came to receive an orientation to Hawaii's culture and cross-cultural management training.

Your Committees received testimony in support of the Concurrent Resolution from the University of Hawaii and the Department of Business, Economic Development, and Tourism.

As affirmed by the records of votes of the members of your Committees on Higher Education, Culture, and Arts and Economic Development that are attached to this report, your Committees concur with the intent and purpose of H.C.R. No. 112, H.D. 2, and recommend its adoption.

Signed by the Chairmen on behalf of the Committees.

Ayes, 6. Noes, none. Excused, 5 (Fernandes Salling, Matsuura, McCartney, Tam, Taniguchi).

SCRep. 2900 (Joint) Health and Hawaiian Affairs on H.C.R. No. 150

The purpose of this measure is to urge the Governor, taking into consideration the role and accomplishments of the Governor's Pacific Health Promotion and Development Center, to reaffirm the trust responsibility of the State for improving the health status of Hawaiians by evaluating and supporting existing programs.

Your Committees adopted the recommendations of the Director of Health and Papa Ola Lokahi and amended the measure by: deleting the request to reinstitute health data collection procedures; adding the Department of Education to the list of entities requested to carry out their respective mandates; adding the Chairperson of the Board of Education and

the Superintendent of Education to the list of persons designated to receive a copy of the measure; and placing Papa Ola Lokahi as the lead agency in the effort to finalize an action plan and timetable for implementation of comprehensive health care initiatives for Hawaiians.

As affirmed by the records of votes of the members of your Committees on Health and Hawaiian Affairs that are attached to this report, your Committees concur with the intent and purpose of H.C.R. No. 150, H.D. 1, as amended herein, and recommend that it be referred to the Committee on Ways and Means, in the form attached hereto as H.C.R. No. 150, H.D. 1, S.D. 1.

Signed by the Chairmen on behalf of the Committees.
Ayes, 4. Noes, none. Excused, 3 (Grauly, Kanno, McCartney).

SCRep. 2901 (Joint) Health and Hawaiian Affairs on H.C.R. No. 159

The purpose of this Concurrent Resolution is to request the Department of Health and the Department of Human Services to review their priorities and redirect resources towards primary prevention activities, particularly in relation to improving the health of Hawaiians, and to report their efforts to the Legislature.

Your Committees find that primary prevention activities in health promotion and disease prevention are vital to improving the health of Hawaii residents. Your Committees further find that native Hawaiians are a high risk priority group especially in need of preventive services.

Your Committees note that the cost-benefit ratio of these activities to society have been demonstrated through numerous studies that have been undertaken by the Center for Diseases Control, and other agencies.

Your Committees have amended the Concurrent Resolution by amending the title and the Be It Resolved clause to delete the requirement that resources be redirected and to instead require reaffirmation of the importance of primary prevention.

As affirmed by the records of votes of the members of your Committees on Health and Hawaiian Affairs that are attached to this report, your Committees concur with the intent and purpose of H.C.R. No. 159, as amended herein, and recommend that it be referred to the Committee on Ways and Means, in the form attached hereto as H.C.R. No. 159, S.D. 1.

Signed by the Chairmen on behalf of the Committees.
Ayes, 4. Noes, none. Excused, 3 (Grauly, Kanno, McCartney).

SCRep. 2902 Education on H.C.R. No. 24

The purpose of this Concurrent Resolution is to request the continued support of the Department of Education to work in conjunction with the youth of the First Representative District and community agencies in the area to develop community-based youth programs.

Your Committee finds that there is an urgent need for community-based cooperation between State and community agencies in addressing the youth population of the First Representative District, as identified by a peer survey conducted by students in the district. Your Committee further finds that when students encounter issues such as substance abuse, teen pregnancy, and gang participation, such community-based youth programs are invaluable and cost-effective in addressing these challenges.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 24 and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Bunda, Tam).

SCRep. 2903 Education on H.C.R. No. 74

The purpose of this Concurrent Resolution is to request the Department of Education to convene a School Bus Safety Task Force to study proposals for, and recommend an action plan to implement, a school bus safety program for the island of Kauai.

Your Committee finds that the responsibility to ensure the safety and welfare of students using the school bus transportation system on the island of Kauai, falls within the purview of various state and local government agencies. Your Committee further finds that this problem cannot be solved by the government agencies alone, and encourages the participation of the Kauai member affiliated organizations on this Task Force.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 74, H.D. 1, and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Bunda, Tam).

SCRep. 2904 Education on H.C.R. No. 253

The purpose of this Concurrent Resolution is to urge negotiations between the United Public Workers and the Department of Education so that smoking may be prohibited on public school campuses.

Your Committee finds that a primary responsibility of the Department of Education is to provide a safe and healthy learning environment for all students attending public school. Your Committee further finds that a no-smoking policy that affects all school personnel, including custodians and cafeteria workers, would serve as a model smoke-free environment as well as reinforce existing laws which prohibit children from smoking during school hours and on school premises.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 253 and recommends that it be referred to the Committee on Agriculture, Labor, and Employment.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Bunda, Tam).

SCRep. 2905 Education on H.C.R. No. 277

The purpose of this Concurrent Resolution is to request the Departments of Education, Health, Human Services, Labor and Industrial Relations, and Business, Economic Development, and Tourism, and the Office of Children and Youth to cooperate and participate, through the interdepartmental council, as partners with the private sector alliance to establish a comprehensive system of quality early childhood education and care services as described in the Good Beginnings Master Plan.

Your Committee finds that planning for and establishing an integrated system of early childhood education and care services is critical to sustaining an economic future for our residents who are both providers and consumers of such services. Your Committee further finds that valuable resources have already been committed to establish a public/private alliance, and the appropriate state agencies should participate in and support the alliance.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 277, H.D. 1, and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Bunda, Tam).

SCRep. 2906 Health on H.C.R. No. 67

The purpose of this concurrent resolution is to request the Department of Business, Economic Development, and Tourism to develop an overall health tourism strategy for the State of Hawaii.

Your Committee finds that Hawaii has the potential to become a health care mecca for the Pacific and Asian region. Already major hospitals and clinics in Honolulu are attracting patients from the Orient and the Pacific Islands and are exploring joint venture and partnership agreements with major mainland health care providers.

This concurrent resolution promotes this effort as another avenue of tourism. The State's health care industry has been an overlooked asset in the overall tourism picture. This viable and valuable tourism potential must not be allowed to languish. The State should assist the health care industry to expand beyond the shores of Hawaii.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 67, H.D. 1, and recommends that it be referred to the Committee on Tourism and Recreation.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kanno).

SCRep. 2907 Health on H.C.R. No. 77

The purpose of this Concurrent Resolution is to request the implementation of the recommendations of the United States Public Health Service regarding HIV counseling and voluntary testing for pregnant women.

Your Committee finds that recent studies indicate that AZT given to pregnant women who are HIV positive may result in the baby being born HIV negative. Therefore, in an effort to reduce perinatal HIV transmission, your Committee believes it is necessary for the Department of Health to implement the guidelines put forth by the U.S. Public Health Service in the hope that perinatal HIV transmission will be reduced in our State.

Your Committee believes that, because the Department of Human Services has already been involved in HIV testing of pregnant women, the Department of Health, in implementing the objectives of this measure, should work in conjunction with the Department of Human Services.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 77, H.D. 1, and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kanno).

SCRep. 2908 Agriculture, Labor, and Employment on H.C.R. No. 16

The purpose of this Concurrent Resolution is to urge the Governor to place a high administrative priority on existing pest eradication and prevention programs, as well as the development and implementation of new programs recommended by the Coordinating Group on Alien Pest Species (CGAPS).

Your Committee finds that the Hawaiian islands are among the most environmentally sensitive areas in the world, containing unique and extremely fragile ecosystems. The State's 150 recognized ecosystems are home to more than one-third of the 526 plant species and 88 bird species on the United States endangered and threatened species list. As such, conservationists call Hawaii the "Endangered Species Capital of the World," as three-fourths of the nation's extinct plant and bird species once lived only on our islands.

Your Committee also finds that alien pest species are considered the single greatest threat to the survival of our native Hawaiian plant and bird species and on average, twenty new insect species arrive in Hawaii each year, of which ten become pests.

Your Committee believes that supporting efforts to protect the State's delicate environment are necessary in order to ensure that Hawaii's natural treasures are available for generations to come.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 16 and recommends its adoption.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Solomon, Taniguchi).

SCRep. 2909 Health on H.C.R. No. 49

The purpose of this Concurrent Resolution is to express the Legislature's support of the creation and expansion of mental health self-help and support groups, and to urge the Department of Health to actively assist and support these groups by, among other things, urging other mental health providers to actively assist and support the mental health self-help and support groups.

Your Committee finds that mental health self-help and support groups are forms of natural supports. Research has shown that natural supports, such as these, decrease the need for extensive mental health treatment and hospitalization. Your Committee notes that these groups do not replace quality mental health treatment such as hospitalization, individual and group psychotherapy, and medication, but supplement these services in the overall effort to maximize the well-being of people with mental illnesses.

Your Committee further finds that many people suffering from mental illness are isolated and lonely and according to the Mental Health Association in Hawai'i, participation in mental health self-help groups can lead to:

- (1) Enhanced social and coping skills development;
- (2) An enlarged supportive network;
- (3) Increased competency and functioning;
- (4) An improved sense of self;
- (5) Encouragement and positive feedback;
- (6) Protection against stress;
- (7) An increase in knowledge and resources;
- (8) Socialization opportunities; and
- (9) The beginning of the process of empowerment.

Your Committee believes that at a time when the State is experiencing severe budget shortages, the importance of self-help and support groups as a method of assisting in the recovery of mental health patients is self evident. Your Committee finds that these groups are led by consumers or family members and not by mental health professionals.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 49, H.D. 1, and recommends its adoption.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kanno).

SCRep. 2910 Economic Development on H.C.R. No. 56

The purpose of this Concurrent Resolution is to support the efforts of the Hawaii Society of Corporate Planners in establishing, in cooperation with private economic development agencies, a statewide economic partnership group composed of representatives from the business, government, academic, labor, and foundation sectors in Hawaii.

Your Committee finds that the proposed economic partnership will be similar in composition and scope to the Bay Area Economic Forum of San Francisco, which has helped to significantly improve the business environment and economic infrastructure of the San Francisco Bay Area.

Testimony in support of this measure was submitted by the Department of Business, Economic Development, and Tourism, the Hawaii Society of Corporate Planners, Tatum Enterprises, and the Coalition for Competitive Telecommunications.

As affirmed by the record of votes of the members of your Committee on Economic Development that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 56 and recommends its adoption.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Tam).

SCRep. 2911 (Joint) Agriculture, Labor, and Employment and Ways and Means on H.C.R. No. 63

The purpose of this Concurrent Resolution is to request that the Agribusiness Development Corporation (ADC) conduct a study on the economic potential, problems, and other related matters of growing nonpsychoactive industrial cannabis hemp as an agricultural product in Hawaii and submit a report of its findings to the Legislature prior to the 1997 Regular Session.

The measure also requests that the ADC, in conducting the study:

- (1) Work in conjunction with the Department of Business, Economic Development, and Tourism, the Department of Agriculture, the University of Hawaii College of Tropical Agriculture and Human Resources, and the Legislative Reference Bureau; and
- (2) Set forth problems, barriers, and concerns involved in the development and creation of an industrial hemp industry in Hawaii, including the potential of developing and creating this industry in Hawaii.

Your Committees believe that, given the State's current economic crisis, the viability of alternative cash crops should be explored to the fullest extent possible.

As affirmed by the records of votes of the members of your Committees on Agriculture, Labor, and Employment and Ways and Means that are attached to this report, your Committees concur with the intent and purpose of H.C.R. No. 63, H.D. 2, and recommend its adoption.

Signed by the Chairmen on behalf of the Committees.
Ayes, 7. Noes, none. Excused, 4 (Bunda, Fernandes Salling, Ikeda, Solomon).

SCRep. 2912 (Joint) Planning, Land and Water Use Management and Tourism and Recreation on H.C.R. No. 197

The purpose of this Concurrent Resolution is to urge the Department of Land and Natural Resources to implement catch and release regulations for the taking of certain species of fish in the Wahiawa Public Fishing Area (Lake Wilson):

Your Committees find that Lake Wilson, being one of the State's few freshwater fisheries, is a valuable economic and social resource because of the business it generates for the communities of Oahu's central district and the recreational opportunities it affords citizens of all ages.

Your Committees also find that certain predatory aquarium fish species, including the freshwater stickfish, the red devil, and the jewel cichlid, were accidentally introduced into Lake Wilson around 1988. Coupled with the increase in the number of freshwater anglers in the past few years, these conditions have depleted the large mouth bass and tucunare population to the point where catch and release regulations should be initiated to preserve such fishing for present and future generations.

Absent the necessary funds for a fishery restocking program at this time, your Committees believe that a catch and release program for the largemouth bass and tucunare would provide the necessary protection for these two species.

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

As affirmed by the records of votes of the members of your Committees on Planning, Land and Water Use Management and Tourism and Recreation that are attached to this report, your Committees concur with the intent and purpose of H.C.R. No. 197, H.D. 1, as amended herein, and recommend its adoption in the form attached hereto as H.C.R. No. 197, H.D. 1, S.D. 1.

Signed by the Chairmen on behalf of the Committees.
Ayes, 6. Noes, none. Excused, 6 (Fernandes Salling, Fukunaga, Holt, Ige, Ihara, Solomon).

SCRep. 2913 (Joint) Hawaiian Affairs and Higher Education, Culture, and Arts on H.C.R. No. 220

The purpose of this concurrent resolution is to proclaim native speakers of the Hawaiian language to be living treasures of the State.

The Hawaiian language is the most tangible and vital connection that Hawaiians have to their culture and it exists nowhere else in the world.

Your Committees find that pride in the Hawaiian language was suppressed for many years, resulting in its decline as a language of everyday communication and making speakers feel ashamed of it. Your Committees further find that there has been a renaissance of interest and pride in the Hawaiian language in the last decade and that the language should be preserved and promoted so that it will never again reach near extinction. To this end, those persons who speak the Hawaiian language in their homes and who inculcate their children in the language in order to preserve it and thereby perpetuate the precious Hawaiian culture should be honored with the distinction of being designated as unique and precious cultural resources.

Your Committees have amended this concurrent resolution by:

- (1) Amending the title to delete "living treasures" and to substitute "unique and precious cultural resources"; and
- (2) Adding in a resolved paragraph that the Department of Education respect as well as recognize the unique qualities of children and deleting in that same paragraph that the Department of Education ensure that teachers respect the children's first language.

As affirmed by the records of votes of the members of your Committees on Hawaiian Affairs and Higher Education, Culture, and Arts that are attached to this report, your Committees concur with the intent and purpose of H.C.R. No. 220, as amended herein, and recommend its adoption, in the form attached hereto as H.C.R. No. 220, S.D. 1.

Signed by the Chairmen on behalf of the Committees.

Ayes, 7. Noes, none. Excused, 4 (Fernandes Salling, Fukunaga, Ikeda, Levin).

SCRep. 2914 Economic Development on H.C.R. No. 259

The purpose of this Concurrent Resolution is to urge Congress to continue the Low-Income Home Energy Assistance Program (LIHEAP).

Your Committee finds that LIHEAP has proven essential in assisting low-income families in Hawaii meet their energy requirements. As Hawaii's electric rates are among the nation's highest, the State has a vital interest in the continuation of LIHEAP and the valuable assistance it provides.

Your Committee received testimony in support of this measure from the Department of Human Services, the Consumer Advocate, and Hawaiian Electric Company.

Your Committee has amended this measure by deleting frozen plumbing and fire from the list of risks associated with utility disconnection, and substituting instead food spoilage and lack of sanitation. Your Committee believes that this amendment better reflects the State's warm-weather climate and high level of reliance on electric energy.

As affirmed by the record of votes of the members of your Committee on Economic Development that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 259, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 259, S.D. 1.

Signed by the Chairman on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 1 (Tam).

SCRep. 2915 (Joint) Agriculture, Labor, and Employment and Ways and Means on H.C.R. No. 284

The purpose of this Concurrent Resolution is to request that the Auditor conduct a management audit of the Special Compensation Fund (Fund) to determine whether it may function more effectively and efficiently as a separate entity with its own administrator and staff devoted solely to its specific purposes, or placed in an administrative setting other than the Department of Labor and Industrial Relations (DLIR).

Your Committees find that the Special Compensation Fund established pursuant to Section 386-151, Hawaii Revised Statutes (HRS), is administratively placed with the DLIR and serves a wide range of critical functions in the State's Workers' Compensation program, including payment of benefits to employees and their beneficiaries, and reimbursements to employers, under a number of different circumstances that arise in the complex system established pursuant to Chapter 386, HRS. All moneys in the Fund are derived from assessments on employers or underwriters of Workers' Compensation policies in the State.

Although the Fund is administratively attached to the DLIR, the Director of Finance is custodian of the Fund. The Director of Finance cannot make any payments from the Fund without specific orders from the Director of Labor and Industrial Relations.

Your Committees also find that:

- (1) When an employer owes an amount to the Fund not specifically established by law, the Director of Labor and Industrial Relations makes the assessment and collects and deposits the amount into the Fund;
- (2) When an insurance company owes an amount to the Fund as a tax levy on Workers' Compensation policy premiums received, the Insurance Commissioner makes the collection which is then transmitted to the Director of Finance for deposit into the Fund; and
- (3) When self-insured employers such as the State or a county owe money to the Fund, the Director of Labor and Industrial Relations determines and collects the amount and makes the deposit, except that if a county is delinquent, the Director of Finance can withhold the amount from any money due to the county from the State.

Your Committees are mindful that the express purpose of the Fund is to ensure that regardless of the circumstances, injured workers or their beneficiaries will receive the compensation to which they are by law entitled. Your Committees believe that the existence of multiple jurisdictions and procedures currently associated with the administration of the Fund actually inhibit rather than facilitate timely collection of assessments and payment of benefits and therefore find the audit necessary.

Your Committees have amended the measure by correcting a drafting error in the "BE IT RESOLVED" section.

As affirmed by the records of votes of the members of your Committees on Agriculture, Labor, and Employment and Ways and Means that are attached to this report, your Committees concur with the intent and purpose of H.C.R. No. 284, as amended herein, and recommend its adoption in the form attached hereto as H.C.R. No. 284, S.D. 1.

Signed by the Chairmen on behalf of the Committees.

Ayes, 7. Noes, none. Excused, 5 (Bunda, Fernandes Salling, Ikeda, Solomon, Liu).

SCRep. 2916 (Joint) Hawaiian Affairs and Judiciary on H.C.R. No. 289

The purpose of this concurrent resolution is to request the federal government to recognize and incorporate the nonconfrontational aspects of traditional Hawaiian culture with respect to its dealings with the Pai Ohana's cultural activities at Ai'opio.

Your Committees find that the Pai Ohana have long held the position as "kahu" or caretaker of the Ai'opio fishtrap and heiau near Kailua-Kona, Hawaii. They have honorably and dutifully exercised stewardship over the grounds and shores to preserve the traditional Hawaiian culture and practices at Ai'opio.

Ai'opio is within the boundaries of the Kaloko-Honokohau National Historic Park, authorized by Congress in 1978 to provide a center for the preservation, interpretation, and perpetuation of traditional Hawaiian activities and culture, including the rich archaeological sites located at Ai'opio.

A dispute has arisen between the federal government and the Pai Ohana as to their respective rights over Ai'opio, with the Pai family now facing eviction. This is especially disheartening when both sides appear to want the same thing, which is the preservation and perpetuation of the Hawaiian culture.

Therefore, your Committees believe that this dispute should be resolved by nonconfrontational means utilizing the traditional Hawaiian method of dispute resolution (such as ho'oponopono) wherein both parties agree to sit down together and to listen and to talk to each other with a sincere effort to work out their differences in a peaceful manner to reach an agreement to rectify the matter for their mutual benefit.

Your Committees further find that the United States is actually very fortunate because the Park is one of the very few in existence that has a traditional Hawaiian family living the very culture Congress is trying to protect and perpetuate. It is ironic therefore that the federal government is now trying, overtly or inadvertently, to extinguish the personification of the very culture it was seeking to protect and perpetuate.

Your Committees realize that this concurrent resolution is intended as a statement of support for the Pai Ohana's right to remain on their ancestral lands, now in its ninth generation, and believe that more should be done to protect the rights of the Pai Ohana.

Your Committees have amended this concurrent resolution to add references to religious activities and customs of the Pai Ohana.

As affirmed by the records of votes of the members of your Committees on Hawaiian Affairs and Judiciary that are attached to this report, your Committees concur with the intent and purpose of H.C.R. No. 289, H.D. 2, as amended herein, and recommend its adoption in the form attached hereto as H.C.R. No. 289, H.D. 2, S.D. 1.

Signed by the Chairmen on behalf of the Committees.

Ayes, 6. Noes, none. Excused, 4 (Levin, Matsunaga, Tam, Anderson).

SCRep. 2917 Education on H.C.R. No. 300

The purpose of this Concurrent Resolution is to request the Department of Education and the Board of Education to name a public school on the Waianae Coast in honor of Herbert K. Pililaa.

Your Committee finds that Herbert K. Pililaa, a resident of Waianae, was the first serviceman from Hawaii to receive the Congressional Medal of Honor, as well as other medals for bravery, in recognition of his engagement of the enemy in hand-to-hand combat, courageously fighting with his trench knife and bare fists until finally overcome and mortally wounded. When the U.S. position was subsequently retaken, more than forty enemy dead were counted in the area that Pililaa had so valiantly defended. Your Committee further finds that the naming of a public school in the Waianae area would be a living testament to a true hero and that the issue of re-naming an existing school must be raised at the community-level and suggests that interested parties work with the schools in the area.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 300 and recommends its adoption.

Signed by the Chairman on behalf of the Committee.

Ayes, 3. Noes, none. Excused, 2 (Bunda, Tam).

SCRep. 2918 Health on H.C.R. No. 324

The purpose of this measure is to urge youth athletic leagues in Hawaii to adopt policies discouraging tobacco and alcohol use by coaches, parents, and family members during league games and practices.

Your Committee concurs with the conclusion of the studies conducted by the Center of Addiction and Substance Abuse at Columbia University stating that adult and adolescent abuse of substances -- cigarettes, alcohol, marijuana, cocaine, heroin, and other illegal drugs -- is the most important problem confronting adolescents today, well ahead of the number two problem, crime and violence. Therefore, your Committee believes that the scope of activities covered by this measure should not be limited to practices and games.

Your Committee has amended this measure by expanding the scope of activities covered by it to include any occasion when youths are present, and by amending the title of this measure to reflect its broadened scope.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 324, H.D. 1, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 324, H.D. 1, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 1 (Kanno).

SCRep. 2919 Executive and Judicial Appointments on Gov. Msg. No. 224

Recommending that the Senate advise and consent to the nomination of ALFRED K. BEAVER, SR., to the Hawaii Paroling Authority, term to expire June 30, 2000.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Bunda, Holt, Liu).

SCRep. 2920 Executive and Judicial Appointments on Gov. Msg. Nos. 248, 249, 250, 251, 252, 253 and 254

Recommending that the Senate advise and consent to the nominations of the following:

MIMI R. BROWN to the Honolulu Subarea Health Planning Council, term to expire June 30, 1998 (Gov. Msg. No. 248);

STEPHEN A. KULA, MARGARET NIELSON, JAMES P. WALSH and SANDRA J. WELLS to the Honolulu Subarea Health Planning Council, terms to expire June 30, 2000 (Gov. Msg. No. 248);

WENDY A ABE., DAVID HILL, C. MIKE KIDO, JACOB Y.W. NG and ADELA G. SANIDAD to the Central Oahu Subarea Health Planning Council, terms to expire June 30, 2000 (Gov. Msg. No. 249);

NORMA J. JENSEN, MARJORIE A. SHEPHERD and THOMAS J.K. WOLFE, R.N., to the Waianae Coast Subarea Health Planning Council, terms to expire June 30, 2000 (Gov. Msg. No. 250);

LESLIE S. CHINEN, MARY JANE GRETZ, R.N. and NOELLA J. KONG to the Windward Oahu Subarea Health Planning Council, terms to expire on June 30, 2000 (Gov. Msg. No. 251);

WAYNE C. SHIROTA to the Hawaii County Subarea Health Planning Council, term to expire June 30, 1997 (Gov. Msg. No. 252);

KAREN A.M. NORRIS to the Hawaii County Subarea Health Planning Council, term to expire June 30, 1999 (Gov. Msg. No. 252);

CRAIG KADOOKA, M.D., ANH NGUYET LAMBETH, JOHN R. LIPSCOMB, CLIFFORD K. MOTTA, IDA H. OTAKE, R.N. and BEVERLY JEAN WITHINGTON to the Hawaii County Subarea Health Planning Council, terms to expire June 30, 2000 (Gov. Msg. No. 252);

RICHARD W. CARMICHAEL, NORMAN J.N. HOLT SR., DALE SHIMOMURA, PAUL SIALANA and DANIEL H. YOTSUDA to the Kauai County Subarea Health Planning Council, terms to expire June 30, 2000 (Gov. Msg. No. 253); and

LAWRENCE HART, M.D., to the Maui County Subarea Health Planning Council, term to expire June 30, 2000 (Gov. Msg. No. 254).

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Fernandes Salling).

SCRep. 2921 Executive and Judicial Appointments on Gov. Msg. Nos. 265, 266 and 267

Recommending that the Senate advise and consent to the nominations of the following:

BARBARA E. DART and CAROL ANN KALAAU to the County Public Health Facility Management Advisory Committee, County of Hawaii, terms to expire June 30, 2000 (Gov. Msg. No. 265);

MALCOLM Y. DOI and MARY JO SWEENEY to the County Public Health Facility Management Advisory Committee, County of Kauai, terms to expires June 30, 2000 (Gov. Msg. No. 266); and

APRIL S. APANA and DOLORES M. FABRAO to the County Public Health Facility Management Advisory Committee, County of Maui, terms to expire June 30, 2000 (Gov. Msg. No. 267).

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Fernandes Salling, Graulty).

SCRep. 2922 Executive and Judicial Appointments on Gov. Msg. Nos. 269, 270, 271 and 272

Recommending that the Senate advise and consent to the nominations of the following:

EUCLID LEE to the Board of Registration, Island of Oahu, term to expire June 30, 2000 (Gov. Msg. No. 269);

JOHN W. CLARK to the Board of Registration, Island of Hawaii, term to expire June 30, 2000 (Gov. Msg. No. 270);

DALE N.Y. TAKIGUCHI to the Board of Registration, Kauai and Niihau, term to expire June 30, 2000 (Gov. Msg. No. 271); and

BENJAMIN P. KEAU, JR., to the Board of Registration, Maui, Molokai, Lanai, and Kahoolawe, term to expire June 30, 2000 (Gov. Msg. No. 272).

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Fernandes Salling, Graulty).

SCRep. 2923 Executive and Judicial Appointments on Gov. Msg. Nos. 273, 274 and 275

Recommending that the Senate advise and consent to the nominations of the following:

MARY ANN K. DEVORE to the State Advisory Council on Rehabilitation, term to expire June 30, 1997 (Gov. Msg. No. 273);

MARK FRATZKE, WAYNE H. KISHIDA, LAURA ROBERTSON and BETTY J. SESTAK to the State Advisory Council on Rehabilitation, terms to expire June 30, 1999 (Gov. Msg. No. 273);

EMIKO I. KUDO and RAMONA K. MULLAHEY to the Rental Housing Trust Fund Commission, terms to expire June 30, 2000 (Gov. Msg. No. 274); and

DALE T. MATSUMOTO-OI, WILSON MURAKAMI, M.D., and JANIS S. SHINTANI to the Board of Speech Pathology and Audiology, terms to expire June 30, 1999 (Gov. Msg. No. 275).

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Fernandes Salling, Graulty).

SCRep. 2924 Executive and Judicial Appointments on Gov. Msg. Nos. 276, 277, 278 and 279

Recommending that the Senate advise and consent to the nominations of the following:

JAMES W. MASTERS to the Board of Taxation Review, First Taxation District (Oahu), term to expire June 30, 2000 (Gov. Msg. No. 276);

ANDREW J. BONFIELD and KATHLEEN M. HAAKE to the Board of Taxation Review, Second Taxation District (Maui County), terms to expire June 30, 2000 (Gov. Msg. No. 277);

GORDON Y. INABA and RICHARD GEORGE WITHINGTON to the Board of Taxation Review, Third Taxation District (Hawaii), terms to expire June 30, 2000 (Gov. Msg. No. 278);

STEVEN J. NISHIMURA to the Board of Taxation Review, Fourth Taxation District (Kauai), term to expire June 30, 1997 (Gov. Msg. No. 279); and

CAROLINE K. UOHARA to the Board of Taxation Review, Fourth Taxation District (Kauai), term to expire June 30, 2000 (Gov. Msg. No. 279).

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Fernandes Salling, Graulty).

SCRep. 2925 Executive and Judicial Appointments on Gov. Msg. No. 280

Recommending that the Senate advise and consent to the nomination of HERBERT M. RICHARDS, JR., to the Commission Water Resource Management, term to expire June 30, 1999.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Fernandes Salling, Graulty).

SCRep. 2926 Executive and Judicial Appointments on Gov. Msg. No. 283

Recommending that the Senate advise and consent to the nominations of:

IRIS R. OKAWA to the Board of Directors, Aloha Tower Development Corporation, term to expire June 30, 1997; and

TOBIAS (TOBY) M.L. MARTYN to the Board of Directors, Aloha Tower Development Corporation, term to expire June 30, 2000.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Fernandes Salling, Graulty).

SCRep. 2927 Executive and Judicial Appointments on Gov. Msg. Nos. 255 and 256

Recommending that the Senate advise and consent to the nominations of the following:

SARAH E. POTTER to the Statewide Independent Living Council, term to expire June 30, 1997 (Gov. Msg. No. 255);

MICHAEL S. FLORES, LARRY HITCHCOCK, ROY G. THOMAS and CARRICK WONG to the Statewide Independent Living Council, terms to expire June 30, 1998 (Gov. Msg. No. 255);

DOROTHY (NANI) FIFE, LESLIE E. KELLY and MARK T. OBATAKE to the Statewide Independent Living Council, terms to expire June 30, 1999 (Gov. Msg. No. 255); and

LYNN LEE to the Kaneohe Bay Regional Council, term to expire June 30, 2000 (Gov. Msg. No. 256).

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Fernandes Salling, Graulty).

SCRep. 2928 Executive and Judicial Appointments on Gov. Msg. Nos. 261, 262, 263 and 264

Recommending that the Senate advise and consent to the nominations of the following:

IVANA MIKA CHANG, LA VERNNE K. NAKAMURA and PATRICIA O'NEAL to the State Council on Mental Health, terms to expire June 30, 1997 (Gov. Msg. No. 261);

LESLIE E. KELLY to the State Council on Mental Health, term to expire June 30, 1999 (Gov. Msg. No. 261);

GARY L. BLAICH, M.D., CAROL JEAN GILLILAND, R.N., DUANE IKEDA, HOWARD LESSER, ALBERT LEWIS, TOM PERRY and GWENSON YUEN to the State Council on Mental Health, terms to expire June 30, 2000 (Gov. Msg. No. 261);

GREGORY G. HELM, SR., to the Molokai Irrigation System Water Users Advisory Board, term to expire June 30, 1999 (Gov. Msg. No. 262);

PAUL ELIA and GEORGE W. MAIOHO to the Molokai Irrigation System Water Users Advisory Board, terms to expire June 30, 2000 (Gov. Msg. No. 262);

ELAINE S. ARAKAKI to the Board of Dispensing Opticians, term to expire June 30, 2000 (Gov. Msg. No. 263); and

MILES T. NAKATSU to the Board of Pharmacy, term to expire June 30, 2000 (Gov. Msg. No. 264).

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Fernandes Salling, Graulty).

SCRep. 2929 Executive and Judicial Appointments on Gov. Msg. Nos. 288 and 289

Recommending that the Senate advise and consent to the nominations of the following:

WILLIAM CHRISTOFFEL to the State Planning Council on Development Disabilities, term to expire June 30, 1996 (Gov. Msg. No. 288);

JOHN H. APO and GLORIA KISHI, Ph.D., to the State Planning Council on Developmental Disabilities, terms to expire June 30, 1998 (Gov. Msg. No. 288);

WILLIAM CHRISTOFFEL, MICHAEL GRIFFIN, NAOMI S. GROSSMAN, WILLOW S. MORTON, SHERYL NELSON, GEORGE Y. OMURA, HEATHER PROUD and LAURA ROBERTSON to the State Planning Council on Development Disabilities, terms to expire June 30, 2000 (Gov. Msg. No. 288); and

FAITH C. AI LAI, COLETTE BROWNE, Dr. P.H., ABE KAAHU, KIMIE LANE, FREDERICK K. LEE, BETTY T. MATSUMURA, BRUCE W. MCCULLOUGH and JAMES T. OTA to the Policy Advisory Board of Elder Affairs, terms to expire June 30, 2000 (Gov. Msg. No. 289).

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Fernandes Salling, Graulty).

SCRep. 2930 Executive and Judicial Appointments on Gov. Msg. Nos. 290 and 291

Recommending that the Senate advise and consent to the nominations of the following:

JAY I. ISHIBASHI to the Board of Professional Engineers, Architects, Surveyors, and Landscape Architects, term to expire June 30, 1999 (Gov. Msg. No. 290);

TED GARDUQUE, LESTER H. INOUE, ARNALDO E. PREPOSE and WAYNE T. WADA to the Board of Professional Engineers, Architects, Surveyors, and Landscape Architects, terms to expire June 30, 2000 (Gov. Msg. No. 290);

LINDA NISHIGAYA, Ph.D., to the Hawaii Historic Places Review Board, term to expire June 30, 1996 (Gov. Msg. No. 291);

ROY K. ALAMEIDA to the Hawaii Historic Places Review Board, term to expire June 30, 1998 (Gov. Msg. No. 291); and

AGNES C. CONRAD, AGNES E. GRIFFIN, GAYLOR C. KUBOTA and LINDA NISHIGAYA, Ph.D., to the Hawaii Historic Places Review Board, terms to expire June 30, 2000 (Gov. Msg. No. 291).

Signed by the Chairman on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 2 (Fernandes Salling, Grauly).

SCRep. 2931 Executive and Judicial Appointments on Gov. Msg. No. 292

Recommending that the Senate advise and consent to the nominations of KURT H. MITCHELL and WESLEY R. SEGAWA to the Hawaii Housing Authority, terms to expire June 30, 2000.

Signed by the Chairman on behalf of the Committee.

Ayes, 6. Noes, none. Excused, 1 (Bunda).

SCRep. 2932 Executive and Judicial Appointments on Gov. Msg. Nos. 293, 294 and 295

Recommending that the Senate advise and consent to the nominations of the following:

KEITH W. AHUE, JOAN C. ISHIBASHI and GREGORY M. SATO to the Board of Trustees, Hawaii Public Employees Health Fund, terms to expire June 30, 2000 (Gov. Msg. No. 293);

ROBERT M. FUJII and ROBERT F. MOUGEOT to the Board of Directors, Hawaii Strategic Development Corporation, terms to expire June 30, 1999 (Gov. Msg. No. 294); and

LANCE LEWIS, HENRY K. NALAIELUA and JANE Y. PANG to the Board of Health, terms to expire June 30, 2000 (Gov. Msg. No. 295).

Signed by the Chairman on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 2 (Fernandes Salling, Grauly).

SCRep. 2933 Executive and Judicial Appointments on Gov. Msg. Nos. 296, 297 and 298

Recommending that the Senate advise and consent to the nominations of the following:

ELIZABETH J. HOLMES to the Honolulu Subarea Health Planning Council, term to expire June 30, 2000 (Gov. Msg. No. 296);

GLENN S. IZAWA to the Maui County Subarea Health Planning Council, term to expire June 30, 1998 (Gov. Msg. No. 297); and

ALVIN RHO to the Board of Directors, Housing Finance and Development Corporation, term to expire June 30, 2000 (Gov. Msg. No. 298).

Signed by the Chairman on behalf of the Committee.

Ayes, 6. Noes, none. Excused, 1 (Bunda).

SCRep. 2934 Executive and Judicial Appointments on Gov. Msg. Nos. 299, 300, 301, 302 and 303

Recommending that the Senate advise and consent to the nominations of the following:

HEATHER M. COLE, J. KEOLALANI HANOA and ELDON NALEI TATE-KAHAKALAU to the Island Burial Council, Island of Hawaii, terms to expire June 30, 2000 (Gov. Msg. No. 299);

CARYLIN LOUISE AKA and CHERYL U. LOVELL-OBATAKE to the Island Burial Council, Islands of Kauai and Niihau, terms to expire June 30, 2000 (Gov. Msg. No. 300);

MERCER K. VICENS to the Island Burial Council, Islands of Maui and Lanai, term to expire June 30, 2000 (Gov. Msg. No. 301);

LAWRENCE K. AKI, EDWINA HOLT CACOULIDIS, LUANA E. HAMAKUA, ALAPAI HANAPI and NOELANI MEYER KELIKIPI to the Island Burial Council, Island of Molokai, terms to expire June 30, 2000 (Gov. Msg. No. 302); and

LINDA S. FUJIHARA to the Island Burial Council, Island of Oahu, term to expire June 30, 2000 (Gov. Msg. No. 303).

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Bunda).

SCRep. 2935 Executive and Judicial Appointments on Gov. Msg. No. 304

Recommending that the Senate advise and consent to the nomination of VINCENTE F. AQUINO to the Labor and Industrial Relations Appeals Board, term to expire June 30, 2006.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Bunda).

SCRep. 2936 Executive and Judicial Appointments on Gov. Msg. No. 305

Recommending that the Senate advise and consent to the nomination of LYNN P. MCCRORY to the Board of Land and Natural Resources, term to expire June 30, 2000.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Bunda).

SCRep. 2937 Executive and Judicial Appointments on Gov. Msg. Nos. 306, 307, 308 and 309

Recommending that the Senate advise and consent to the nominations of the following:

MARY-HELEN IVEY to the Maui County Library Advisory Commission, term to expire June 30, 1998 (Gov. Msg. No. 306);

THOMAS JAMES LANGENSTEIN to the Board of Massage Therapy, term to expire June 30, 1999 (Gov. Msg. No. 307);

SHEILA L. MILES to the Board of Massage Therapy, term to expire June 30, 2000 (Gov. Msg. No. 307);

WALLACE K.C. CHUN, M.D., to the State Council on Mental Health, term to expire June 30, 2000 (Gov. Msg. No. 308); and

VICTOR T. NAKAMURA to the Board of Directors, Natural Energy Laboratory of Hawaii Authority, term to expire June 30, 2000 (Gov. Msg. No. 309).

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Bunda).

SCRep. 2938 Executive and Judicial Appointments on Gov. Msg. Nos. 310, 311, 312 and 313

Recommending that the Senate advise and consent to the nominations of the following:

RODNEY CHUN, N.D., and STEVEN G. DUBEY, N.D., to the Board of Examiners in Naturopathy, terms to expire June 30, 2000 (Gov. Msg. No. 310);

BARBARA K. IDETA, R.N., SANDRA MARIE MYERS, L.P.N., KENDALL DEBORAH SHARPLESS, R.N., and JERRY A. WALKER JR., to the State Board of Nursing, terms to expire June 30, 1999 (Gov. Msg. No. 311);

ROSANNA EVERS and CALVIN M. ICHINOSE to the Board of Examiners of Nursing Home Administrators, terms to expire June 30, 2000 (Gov. Msg. No. 312); and

TERESA ANN DENNEY, D.O., to the Board of Osteopathic Examiners, term to expire June 30, 2000) Gov. Msg. No. 313).

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Bunda).

SCRep. 2939 Executive and Judicial Appointments on Gov. Msg. Nos. 314, 315, 316, 317 and 318

Recommending that the Senate advise and consent to the nominations of the following:

MALCOLM T. KOGA, MICHAEL E. KRUPNICK and GORDON M. MACHADO to the Pest Control Board, terms to expire June 30, 2000 (Gov. Msg. No. 314);

TIMOTHY F. OLDERR, M.D., to the Board of Physical Therapy, term to expire June 30, 1998 (Gov. Msg. No. 315);

CYNTHIA LOUISE CLIVIO to the Board of Physical Therapy, term to expire June 30, 1999 (Gov. Msg. No. 315);

CRAIG B. NAGATA to the Board of Physical Therapy, term to expire June 30, 2000 (Gov. Msg. No. 315);

GEORGE FREITAS to the Board of Private Detectives and Guards, term to expire June 30, 1998 (Gov. Msg. No. 316);

STEVE GOODENOW and FREDERICK W. HACKBARTH to the Board of Private Detectives and Guards, terms to expire June 30, 2000 (Gov. Msg. No. 316);

BILL GRAY and ROBERT OYAMA to the Procurement Policy Office Board, terms to expire June 30, 2000 (Gov. Msg. No. 317);

SCOTT SHIRAI to the Board of Public Broadcasting, term to expire June 30, 1999 (Gov. Msg. No. 318); and

MAGDALENA P. DOMINGO and CANDICE E. LUSK to the Board of Public Broadcasting, terms to expire June 30, 2000 (Gov. Msg. No. 318).

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Bunda).

SCRep. 2940 Executive and Judicial Appointments on Gov. Msg. Nos. 319, 320, 321 and 322

Recommending that the Senate advise and consent to the nominations of the following:

CALVIN T. MASAKI and KUULEI R. REYES to the County Public Health Facility Management Advisory Committee, City and County of Honolulu, terms to expire June 30, 2000 (Gov. Msg. No. 319);

ALFREDO G. EVANGELISTA to the Real Estate Commission, term to expire June 30, 1998 (Gov. Msg. No. 320);

ALVIN M. IMAMURA and NORA A. NOMURA to the Real Estate Commission, terms to expire June 30, 2000 (Gov. Msg. No. 320);

JENNIFER SCHEMBER-LANG and GAILYNN WILLIAMSON, Ph.D., to the Reproductive Rights Protection Committee, terms to expire June 30, 2000 (Gov. Msg. No. 321);

PAMELA FERGUSON-BREY and HA'AHEO MANSFIELD to the State Commission on the Status of Women, terms to expire June 30, 1997 (Gov. Msg. No. 322);

CLAIRE MORRIS DOBIE, GWEYN ECKART and KALOWENA C. KOMEIJI to the State Commission on the Status of Women, terms to expire June 30, 1998 (Gov. Msg. No. 322); and

NAOMI C. FUJIMOTO and LESLIE WILKINS to the State Commission on the Status of Women, terms to expire June 30, 1999 (Gov. Msg. No. 322).

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Bunda).

SCRep. 2941 Ways and Means on H.C.R. No. 5

The purpose of this concurrent resolution is to request the City and County of Honolulu and the Kaimuki Neighborhood Board No. 4 to identify and secure a site to establish a community/senior citizen center for the Kaimuki community.

Your Committee finds that demographic data support observations that Kaimuki is a stable, family-oriented neighborhood, whose members are growing older. The data also support observations that Kaimuki needs additional public facilities to meet the needs of its growing senior citizen population. Your Committee also finds that unlike some other stable, family-oriented neighborhoods on Oahu, Kaimuki does not enjoy the use of a public facility that is dedicated exclusively to meeting the needs of the neighborhood's senior citizen population.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 5, H.D. 1, S.D. 1, and recommends its adoption.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 5 (Ikeda, Fernandes Salling, Fukunaga, Kanno, Solomon).

SCRep. 2942 Ways and Means on H.C.R. No. 84

The purpose of this concurrent resolution is to create an interagency task force on food and nutrition assistance.

This concurrent resolution identifies some of the important programs that exist to alleviate malnutrition and assure good health and improve school performance that are experiencing significant changes in federal funding. In combination with state budgetary cutbacks there is a likely need to maximize the resources provided by various agencies both in the public and private sectors to maintain efficient and effective food and nutrition assistance to those who need it.

Your Committee finds that creating an interagency task force on food and nutrition assistance is an effective method to coordinate the different groups and activities relating to food and nutrition assistance.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 84, H.D. 1, S.D. 1, and recommends its adoption.

Signed by the Chairman on behalf of the Committee.

Ayes, 6. Noes, none. Excused, 5 (Ikeda, Fernandes Salling, Fukunaga, Kanno, Solomon).

SCRep. 2943 Ways and Means on H.C.R. No. 150

The purpose of this concurrent resolution is to urge the Governor to reaffirm the trust responsibility of the executive departments to improve the health status of Hawaiian.

Your Committee finds that Hawaiians are the highest at-risk ethnic group for many of the most severe life-threatening health conditions, such as cancer, diabetes, and cardiovascular disease. The poor health status of Hawaiians has been a concern of the state and federal governments and both have designated various resources to address the issue, including the enactment of the Native Hawaiians Health Care Improvement Act. Various public-private initiatives, such as the Papa Ola Lohaki and the Hui 'Imi, have attempted to define and alleviate the problems.

However, despite federal, state, and private efforts, serious health problems for Hawaiians still continue to exist. Your Committee finds that the purpose of this concurrent resolution is to enhance and redirect state efforts to make significant progress on this serious problem.

Your Committee has amended this concurrent resolution by adding language from H.C.R. No. 159 amplifying the health status of Hawaiians and urging the Departments of Human Services and Health to review and reaffirm the importance of primary prevention activities in the health care area.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 150, H.D. 1, S.D. 1, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 150, H.D. 1, S.D. 2.

Signed by the Chairman on behalf of the Committee.

Ayes, 8. Noes, none. Excused, 3 (Ikeda, Fernandes Salling, Kanno).

SCRep. 2944 Ways and Means on H.C.R. No. 159

The purpose of this concurrent resolution is to request the Department of Health and the Department of Human Services to review their current priorities and reaffirm the importance of their primary prevention activities, particularly in relation to improving the health status of Hawaiians.

Your Committee has amended this concurrent resolution by deleting its contents and inserting provisions:

- (1) Approving the compensation plans (and the costs thereof) submitted by the personnel directors of the State, the Judiciary, and the counties pursuant to sections 77-4 and 77-5, Hawaii Revised Statutes; and
- (2) Approving the Public Employees Compensation Appeals Board's January 3, 1996 report of findings on adjustments to the compensation plans submitted by the foregoing personnel directors.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 159, S.D. 1, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 159, S.D. 2.

Signed by the Chairman on behalf of the Committee.

Ayes, 8. Noes, none. Excused, 3 (Ikeda, Fernandes Salling, Kanno).

SCRep. 2945 Ways and Means on H.C.R. No. 276

The purpose of this concurrent resolution is to request the Auditor to conduct a study on the feasibility of establishing an optional retirement plan for University of Hawaii employees.

Your Committee finds that optional retirement plans are used as faculty recruitment tools in public universities across the nation. These plans evidently promote recruitment efforts due to their portability and immediate vesting, features which accommodate the mobile career paths of the typical faculty member. Optional retirement plans are presently not available to University of Hawaii faculty. In light of anticipated nation-wide faculty shortages over the next several years, the implementation here of such plans may enable the University of Hawaii to remain competitive with their counterparts on the mainland.

Your Committee has amended this bill to delete ambiguous language from the third "Resolved" clause.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 276, H.D. 1, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 276, H.D. 1, S.D. 1.

Signed by the Chairman on behalf of the Committee.

Ayes, 8. Noes, none. Excused, 3 (Ikeda, Fernandes Salling, Kanno).

SCRep. 2946 Tourism and Recreation on H.C.R. No. 27

The purpose of this Concurrent Resolution is to urge the United States Congress to grant permanent status to the visa waiver program and extend the visa waiver program to other countries of Asia, particularly Taiwan and Korea.

Your Committee finds that the temporary visa waiver program, which allows qualifying visitors from participating countries to enter the United States for up to ninety days without a visa, has resulted in tremendous increases in international visitor arrivals to Hawaii and the rest of the United States but will expire on September 30, 1996. Your Committee further finds that Hawaii currently receives forty-four percent of its total visitors from foreign nations, including Korea and Taiwan, which are not included in the visa waiver program. Your Committee believes that the approval of a permanent visa waiver program and the inclusion of such countries as Korea and Taiwan will eliminate barriers for such foreign visitors and result in an overall increase in visitor count as well as visitor expenditures in Hawaii as well as the rest of the United States.

As affirmed by the record of votes of the members of your Committee on Tourism and Recreation that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 27 and recommends its adoption.

Signed by the Chairman on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 2 (Fernandes Salling, Solomon).

SCRep. 2947 Tourism and Recreation on H.C.R. No. 265

The purpose of this Concurrent Resolution is to request the Department of Land and Natural Resources to prepare a plan for the restoration, interpretation, and management of Kaneana (Makua) Cave.

Your Committee finds that Kaneana (Makua) Cave has been neglected throughout the years and, more recently, has been defaced by splattering of paint and graffiti. Your Committee further finds that the Kaneana (Makua) Cave site occupies an important place in Hawaii's cultural heritage, especially through its connection with many legends of west Oahu, and needs to be protected for the enjoyment and education of future generations. Your Committee further notes that the supplemental appropriations act has included funds for Makua Beach Park, so that the Department's concerns about lack of funds to undertake this resolution have been addressed by the legislature.

As affirmed by the record of votes of the members of your Committee on Tourism and Recreation that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 265 and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chairman on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 2 (Fernandes Salling, Solomon).

SCRep. 2948 Ways and Means on H.B. No. 3817

The purpose of this bill is to require the Department of Taxation to make certain reports available to the public in print and electronic form.

This bill requires the Department of Taxation to publish three reports:

- (1) Hawaii income patterns--individuals;
- (2) Hawaii income patterns--corporations, proprietorships, and partnerships; and
- (3) Tax credits.

These reports provide important information in evaluating tax expenditures. The reports are helpful to both the Legislature in determining what changes to tax law may be necessary, and to the business community for making critical economic decisions.

These reports have been generated every year since before statehood. Economic concerns about the increase in cost of producing these reports for distribution are met in this bill as it authorizes the Department of Taxation to charge fees for the reports as well as authorizing the Department to negotiate license fees with commercial information providers for electronic distribution.

It is your Committee's intent that the Department of Taxation avoid any restrictions on disclosure that would violate chapter 92F, Hawaii Revised Statutes, when negotiating and entering into licensing agreements with parties who are capable of providing electronic storage reports.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3817, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.

Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2949 Ways and Means on H.B. No. 2539

The purpose of this bill is to authorize the issuance of special purpose revenue bonds to assist Encogen Hawaii, L.P., a Delaware limited partnership, in the construction of a cogeneration power plant that will sell electrical power to the Hawaii Electric Light Company, Inc.

Your Committee finds that the sixty megawatt cogeneration power plant being planned in Hamakua by Encogen Hawaii, L.P. will provide reliable electrical power and various other economic benefits to the people of Hawaii county. This is consistent with the State's goal of encouraging the development of energy projects that make electricity available to the general public. Your Committee finds that the special purpose revenue bonds authorized in this bill will benefit the public.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2539 and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 8. Noes, none. Excused, 3 (Fernandes Salling, Kanno, Taniguchi).

SCRep. 2950 Executive and Judicial Appointments on Jud. Com. No. 1

Recommending that the Senate advise and consent to the nomination of DAVID LEON FONG as Judge of the District Court of the First Circuit, for a term of six years, in accordance with the provisions of Article VI, Section 3, of the Constitution of the State of Hawaii.

Signed by the Chairman on behalf of the Committee.
Ayes, 7. Noes, none. Excused, none.

SCRep. 2951 Executive and Judicial Appointments on Jud. Com. No. 2

Recommending that the Senate advise and consent to the nomination of DOUGLAS HIROSHI IGE as Judge of the District Family Court of the Second Circuit, for a term of six years, in accordance with the provisions of Article VI, Section 3, of the Constitution of the State of Hawaii.

Signed by the Chairman on behalf of the Committee.
Ayes, 7. Noes, none. Excused, none.

SCRep. 2952 Executive and Judicial Appointments on Gov. Msg. No. 200

Recommending that the Senate advise and consent to the nominations of CLYDE T. KODANI and JOSEPH F. BLANCO to the Board of Regents, University of Hawaii, terms to expire June 30, 2000;

Signed by the Chairman on behalf of the Committee.
Ayes, 7. Noes, none. Excused, none.

SCRep. 2953 Ways and Means on H.C.R. No. 24

The purpose of this concurrent resolution is to request the continued support of the Department of Education to work in conjunction with the youth of the First Representative District and various community agencies in the area to develop community-based youth programs.

Your Committee finds that there is a pressing need for community-based cooperation between state and community agencies in addressing the youth population of the First Representative District, as identified by a peer survey conducted by students in the district. Students encounter many challenges, such as substance abuse, teen pregnancy, and gang participation, that present possible stumbling blocks and obstacles that may prevent them from reaching their highest potential. Your Committee further finds, however, that student involvement in community-based youth programs provides an invaluable and cost-effective means of addressing these challenges and presents opportunities for youth for personal growth and development of a strong sense of confidence and pride.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 24 and recommends its adoption.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 5 (Ikeda, Fernandes Salling, Fukunaga, Kanno, Solomon).

SCRep. 2954 Ways and Means on H.C.R. No. 61

The purpose of this concurrent resolution is to affirm that long-term care in Hawaii should be addressed by a public-private program meeting certain principles of long-term care.

Your Committee finds that it is not financially feasible for the State to ensure the provision of long-term care for all its residents on its own and that a joint cooperative effort with the private sector is necessary. Long-term care services delivery is currently fragmented. This concurrent resolution promotes an organized and systematic approach to the delivery of quality, affordable long-term care in all forms and at all levels for Hawaii's elderly residents.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.C.R. No. 61 and recommends its adoption.

Signed by the Chairman on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 5 (Ikeda, Fernandes Salling, Fukunaga, Kanno, Solomon).

SCRep. 2955 Ways and Means on H.C.R. No. 74

The purpose of this concurrent resolution is to request the Department of Education to convene a School Bus Safety Task Force for the island of Kauai.

Your Committee finds that the Department of Education does not have age-appropriate procedures to ensure the safety of children during school bus pick up and drop off. In addition, there are no laws, ordinances, or rules that deal effectively with the issue of traffic-related safety for children who must cross streets to reach or leave school bus stops. Moreover, your Committee finds that children on Kauai have been hit by cars when crossing streets to get to or from their school bus stops. Accordingly, your Committee believes this concurrent resolution is necessary to improve the safety of children who ride school buses on the island of Kauai.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 74, H.D. 1, and recommends its adoption.

Signed by the Chairman on behalf of the Committee.

Ayes, 6. Noes, none. Excused, 5 (Ikeda, Fernandes Salling, Fukunaga, Kanno, Solomon).

SCRep. 2956 Ways and Means on H.C.R. No. 157

The purpose of this concurrent resolution is to improve services to the deaf and hard of hearing.

Specifically, this concurrent resolution asks the Department of Human Services to reconsider creating a new branch that centralizes services to the deaf and hard of hearing. The Department of Human Services already has a special branch to provide services to the blind. A dedicated branch to meet the pre-vocational and vocational needs of the hearing impaired, which greatly outnumber blind persons in Hawaii, is sorely needed.

This concurrent resolution also requests the Legislative Reference Bureau to conduct a study of issues concerning that topic. The study will examine the type and quality of services provided to the deaf and hard of hearing. The study will also identify the need for staff support and qualified persons to provide services and the impact this will have on the State.

Your Committee finds that requesting reports from Department of Human Services on their assessment and future plans for services to the deaf and hard of hearing and from the Legislative Reference Bureau regarding the deaf and hard of hearing in the State of Hawaii is an appropriate way to proceed on this important issue.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 157, H.D. 1, and recommends its adoption.

Signed by the Chairman on behalf of the Committee.

Ayes, 8. Noes, none. Excused, 3 (Ikeda, Fernandes Salling, Kanno).

SCRep. 2957 Ways and Means on H.C.R. No. 234

The purpose of this concurrent resolution is to demonstrate legislative support for the benchmarking process of Ke Ala Hoku and to urge the application of its priorities to improve the quality of life in Hawai'i.

Through a public-private collaboration, the State, Aloha United Way, the Chamber of Commerce of Hawaii, the Hawaii Business Roundtable, the Hawaii Community Foundation, the Hawaii Community Services Council, and the Polynesian Voyaging Society convened a statewide steering committee in March 1995 to develop a process to establish benchmarks for quality of life in Hawai'i. The primary theme that arose from this work was the desire for a sustainable community, to serve both the current and future generations in Hawaii.

Your Committee finds that the State needs this kind of vision and guidance. Your Committee encourages the continued participation of all steering committee members to carry on with the benchmarking process.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 234 and recommends its adoption.

Signed by the Chairman on behalf of the Committee.

Ayes, 8. Noes, none. Excused, 3 (Ikeda, Fernandes Salling, Kanno).

SCRep. 2958 Agriculture, Labor, and Employment on H.C.R. No. 42

The purpose of this Concurrent Resolution is to express disapproval to the Legislature of the Commonwealth of the Northern Mariana Islands for approving legislation establishing a six-month freeze in the local minimum wage.

Your Committee finds that the Commonwealth of the Northern Mariana Islands (CNMI) requires by law that the local minimum wage be increased every January 1st until the federal minimum wage of \$4.25 is reached by the year 2000. Notwithstanding the mandates of that law, the CNMI Legislature approved legislation in December of last year that would delay a thirty-cent hourly increase for workers earning the local minimum wage of \$2.75 per hour for six months. After legislative approval, the bill was subsequently vetoed by the Governor of the CNMI, the Honorable Froilan C. Tenorio, on December 29, 1995, and was overridden by the Legislature.

Although your Committee recognizes the possible strain this measure may have on the relationship between the State of Hawaii and the Commonwealth of the Northern Mariana Islands, it believes that increasing the minimum wage by thirty

cents would help bridge the gap between the resident labor force, whose salaries are usually higher than the minimum wage, and the mostly minimum-wage earning foreign workers.

As affirmed by the record of votes of the members of your Committee on Agriculture, Labor, and Employment that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 42, H.D. 1, and recommends its adoption.

Signed by the Chairman on behalf of the Committee.

Ayes, 3. Noes, none. Excused, 2 (Solomon, Taniguchi).

SCRep. 2959 Ways and Means on H.B. No. 3337

The purpose of this bill is to change from ten to four years the time period allowed for the issuance of replacement checks for state checks or warrants that were not cashed in a timely manner.

This bill also makes permanent the amendments to section 40-68, Hawaii Revised Statutes (nonpresentment of warrants and checks), made by section 1 of Act 221, Session Laws of Hawaii 1994.

Your Committee agrees with the intent of this bill, which conforms the time period allowed for claims for reissuance of previously uncashed warrants or checks to the same period for which records supporting the warrants or checks are kept.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3337, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.

Ayes, 9. Noes, none. Excused, 2 (Bunda, Liu).

SCRep. 2960 Ways and Means on H.B. No. 3367

The purpose of this bill is to prohibit the State from investing in securities products commonly referred to as "derivatives".

Additionally, this bill exempts from this prohibition certain money market mutual funds backed by the federal government, managed by types of companies regulated by the federal government, and rated "AAA-m-G" by Standard & Poor's.

Your Committee finds that this bill promotes greater confidence in the financial market's view of the State by providing express assurance to the municipal market and rating agencies that the State of Hawaii is prohibited from investing in derivatives. These notorious products are associated with the recent Orange County, California bankruptcy.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3367 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.

Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2961 Ways and Means on H.B. No. 3370

The purpose of this bill is to allow the Department of Budget and Finance to prohibit the cashing of state checks at the Treasury and requires checks to instead be presented to the depositories of state treasury moneys.

This measure would prohibit the cashing of state checks at the Treasury, except checks issued to redeem matured bonds and coupons. This limits the State's exposure to financial losses by reducing the cash inventory at the state Treasury.

This bill also amends Act 221, Session Laws of Hawaii 1994, by removing the drop-dead provision for amendments to section 40-68, Hawaii Revised Statutes, and makes permanent the requirement to deposit unrepresented funds in the nonpresentment of warrants and checks trust fund up to a balance of \$500,000.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3370 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairman on behalf of the Committee.

Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2962 Ways and Means on H.B. No. 3383

The purpose of this bill is to authorize the issuance of \$64,400,000 in general obligation bonds for the reimbursement of the airport revenue fund for funds used in purchasing two parcels of land in Kapolei.

Your Committee finds that in 1991, the State purchased the Campbell Estate's interests in the Hawaii Raceway Park and the Hawaii Meat Company feedlot parcels in Kapolei, using moneys from the airport revenue fund. Federal law, however, limits the use of airport funds to airport-related purposes. These purchases were subsequently found by the

United States Department of Transportation's Office of the Inspector General to be an inconsistent use of airport revenues, and that the airport revenue fund must be reimbursed for these purchases. Your Committee agrees with this administration bill, which provides for the issuance of general obligation bonds for this purpose.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3383 and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.

Ayes, 8. Noes, none. Excused, 3 (Fernandes Salling, Kanno, Taniguchi).

SCRep. 2963 Ways and Means on H.B. No. 3540

The purpose of this bill is to authorize immediate funding to expedite the completion of expanded bedspace facilities at the Women's Community Correctional Center by the end of 1996 rather than 1997.

Specifically, this bill releases general obligation bonds for fiscal year 1995-1996 pursuant to the Governor's recommendation under article VII, section 9, of the state constitution, for the bill's immediate passage.

Your Committee finds that an earlier completion date of the renovations to the center will shield the State from further federal court sanctions under the *Spear v. Cayetano* consent decree. Additionally, an earlier completion will allow for an earlier transfer to the women's facility of female inmates temporarily housed at Oahu Community Correctional Center. Their departure will in turn open up bedspace for male offenders.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3540, H.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.

Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2964 Ecology and Environmental Protection on S.R. No. 20

The purpose of this Resolution is to support the sponsorship of endangered species art contests at the state and federal level.

While your Committee supports the goal of encouraging our youth to be more aware of the need to protect endangered species, your Committee believes that the need for more effective action to enforce our State's environmental laws is a more urgent concern at this time. Your Committee amended this measure by deleting its entire contents and replacing it with a request that the Department of Health implement a field citation program which will enable them to undertake more timely and effective action to enforce the environmental laws.

As affirmed by the record of votes of the members of your Committee on Ecology and Environmental Protection that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 20, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 20, S.D. 1.

Signed by the Chairman on behalf of the Committee.

Ayes, 3. Noes, none. Excused, 2 (Aki, Ikeda).

SCRep. 2965 Ecology and Environmental Protection on S.R. No. 60

The purpose of this Resolution is to express the concern of the legislature regarding a disease known as fibropapilloma.

Your Committee is concerned about recent events at the Campbell Industrial Park and accordingly, has amended this measure and its title, to reflect its concern. Your Committee deleted the entire contents of this measure and replaced it with a new measure requesting that all grandfathered facilities at Campbell Industrial Park upgrade their equipment to meet federal and state Clean Air Act standards at this time.

Your Committee notes that the Clean Air Act was passed to protect our environmental quality and our public health by ensuring that our air quality would meet state and federal standards. One of the gaps in the protection of the Clean Air Act is the provision which "grandfathers" facilities which were in existence prior to its passage. These older facilities are permitted under the law to emit greater amounts of air pollution, than are sources which came into existence after the passage of the Act.

There are several such sources at the Campbell Industrial Park, two of which are the Chevron USA Inc. and BHP Hawaii Inc. refineries. Your Committee sponsored legislation during this session which would have attempted to require these facilities to upgrade their equipment to meet more modern air quality standards. Although this legislation was not enacted into law, both refineries verbally expressed to the Chairperson of your Committee, their willingness to upgrade in the event the Campbell Industrial Park were to be declared by the U.S. Environmental Protection Agency as an area in non-attainment of ambient air quality standards. Your Committee commends them for this expression of intent and has requested through this Resolution that all grandfathered facilities at the Campbell Industrial Park upgrade their facilities to meet current state and federal standards, so that the air quality of the region can be improved.

Your Committee is particularly concerned about the health of residents in this region and is very disturbed at recent episodes at the refineries which required the hospitalization of small children. Your Committee feels very strongly that the management of the Chevron refinery initially displayed a lack of sensitivity towards these residents, as evidenced by its

attempts to deny responsibility for the incidents as well as its unwillingness to reimburse these families for the medical expenses which were incurred. Your Committee does note, however, that Chevron has recently agreed to assume responsibility for these medical bills and accordingly acknowledges their efforts to cooperate with the needs of the community.

Your Committee hopes that these facilities will demonstrate good corporate citizenship and work with the Department of Health and local community organizations, to not only plan for an upgrade in the equipment at their facilities, but also to establish a clear emergency response procedure, which hopefully will prevent episodes such as the ones which recently occurred at the Campbell Industrial Park.

As affirmed by the record of votes of the members of your Committee on Ecology and Environmental Protection that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 60, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 60, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Aki, Ikeda).

SCRep. 2966 Ways and Means on H.B. No. 404

The purpose of this bill is to allow the county liquor commissions to accumulate reserve funds to address emergencies and unforeseen circumstances.

The bill also requires the county liquor commissions to refund to existing liquor licensees any license fees in excess of twenty per cent of the commissions' current budgets.

Under present law, the commissions are required to return "any" excess funds to licensees. This bill allows the commissions to retain funds to address situations such as unanticipated retirements, breakdowns in office equipment and automobiles, and lawsuits that can cause major budgetary problems if no reserve fund exists.

This type of funding requires no appropriation from general revenues and supports the financial autonomy of each of the commissions.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 404 and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 2 (Bunda, Tanaka).

SCRep. 2967 Ways and Means on H.B. No. 3274

The purpose of this bill is to allow county directors of finance to contract with motor vehicle rental companies for the registration of new motor vehicles.

Your Committee finds that present law authorizes county directors of finance to register new motor vehicles by contract with only new car dealers. These agreements enable these dealers to issue license plates and register vehicles themselves. However, rental car companies are not permitted to do the same. Your Committee finds that contracting with rental car companies has been successful in other states across the nation. This bill will benefit both the rental car companies and their customers because the availability of vehicles for rent will be expedited.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3274 and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 2 (Bunda, Tanaka).

SCRep. 2968 Ways and Means on H.B. No. 3336

The purpose of this bill is to enable the Department of Agriculture to certify honey bee export shipments when health certificates are required as a condition of export.

Your Committee finds that certain countries that import honey bees require exporting countries to issue permits to producers who export honey bee queens. By enabling the Department of Agriculture to certify honey bee export shipments, the State would satisfy the requirements of these importing countries. Your Committee believes that this bill will allow honey bee producers to export honey bee queens more expediently, thereby increasing economic opportunities within the State.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3336 and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2969 Ways and Means on H.B. No. 3348

The purpose of this bill is to ensure the continued funding of the Department of the Attorney General's Medicaid Investigations Division by making an emergency appropriation for fiscal year 1995-1996.

Your Committee finds that the Medicaid Investigations Division investigates and prosecutes fraud and overbilling and cases of patient abuse in health care facilities in the State's medicaid and other health programs. Effective on July 1, 1995, the general fund portion of the Division's funding source was replaced by moneys from the medicaid investigations recovery fund newly created under section 28-91.5, Hawaii Revised Statutes. However, with the shift to special fund funding, no new additional moneys were appropriated to cover matching funds for employee fringe benefits. In addition, moneys for lease and investigative expenses, also need to be appropriated. This bill appropriates the needed \$77,926 for fiscal year 1995-1996 to cover these necessary expenses and allow the Department to meet its fiscal obligations.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3348 and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2970 Ways and Means on H.B. No. 3339

The purpose of this bill is to establish the public works project assessment revolving fund in the Department of Accounting and General Services, and to authorize the Comptroller to assess projects and distribute funds to carry out the department's program of centralized engineering services.

The specific purposes of the revolving fund are to:

- (1) Defray the costs involved in carrying out construction projects managed by the Department of Accounting and General Services;
- (2) Manage those funds representing accumulated vacation and sick leave credits and retirement benefits for project-funded employees in the construction program;
- (3) Equitably collect and distribute the costs of other current expenses associated with capital improvement, repairs and maintenance, and repairs and alterations projects; and
- (4) Manage the payments of employee transportation requirements such as car mileage reimbursements in accordance with applicable law and collective bargaining agreements.

Your Committee received testimony in support of this bill from the Department of Accounting and General Services.

Your Committee finds that this bill will provide the Comptroller with specific statutory authority to establish the three accounts presently used for the administration of public works projects. These accounts were established to equitably manage assessments and expenditures for capital improvement, repairs and maintenance, and repairs and alterations projects and other public works appropriations, and to comply with collective bargaining agreements, civil service laws, and other requirements. This bill will statutorily establish the public works project assessment revolving fund and consolidate the foregoing accounts. Funds will be derived from equitable assessments to applicable public works projects and will be used in accordance with applicable laws, rules, collective bargaining agreements, and other requirements.

Current operating funds do not cover non-recurring costs for specific public works projects such as public advertisements, blueprinting, producing multiple copies of bid specification documents, copier supplies, equipment; and benefits for project-funded employees such as car mileage allowance, and accrued vacation and sick leave benefits or transfer credits. Operating funds and project funds also do not cover other overhead costs such as office furniture and equipment for project-funded employees.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3339 and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 2 (Bunda, Tanaka).

SCRep. 2971 Ways and Means on H.B. No. 3361

The purpose of this bill is to make an emergency appropriation to the Hawaii film studio program for fiscal year 1995-96.

This bill appropriates \$66,500 to increase the Hawaii Film Facility Specialty Fund's authorized spending limit to \$150,000 for the current fiscal year ending June 30, 1996. This appropriation will allow further expenditures including repair and maintenance of the facility to be met, and reflects additional available receipts and an attendant commitment of increased program funding collateral to the receipt of revenues.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3361, H.D. 2, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2972 Ways and Means on H.B. No. 3369

The purpose of this bill is to include "public finance bond underwriting" and "public finance bond investment banking" services within the definition of "professional services" under the state procurement law.

Your Committee finds that this inclusion of public finance underwriting and investment banking services as professional services will permit the Department of Budget and Finance to establish a list of qualified firms that may serve as underwriters for bond issues. These firms would be selected from the list as bond issues occur. Currently, underwriters are selected through a request for proposal process. This bill will allow the department to forego the time-consuming process of compiling and issuing these proposals.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3369, H.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 2 (Bunda, Tanaka).

SCRep. 2973 Ways and Means on H.B. No. 3380

The purpose of this bill is to authorize the Housing Finance and Development Corporation (HFDC) to issue an additional \$77,500,000 in tax-exempt revenue bonds for the Hula Mae Multi-Family Mortgage Purchase Program.

The HFDC submitted testimony in strong support of this bill.

Your Committee finds that the Hula Mae Multi-Family Mortgage Purchase Program provides non-profit and for-profit developers with below-market interest rate loans for the development of affordable rental projects. Under this program, the HFDC is authorized to issue tax-exempt revenue bonds and to make eligible project loans to finance projects that provide for either (1) the addition of new units to the rental housing inventory of the State or (2) the rehabilitation and preservation of existing housing accommodations. The bonds are issued by the HFDC on behalf of private developers. The debt obligation of the bonds are the sole responsibility of the developer, and not the HFDC or the State. In addition, the HFDC requires that all bond issues be credit enhanced via bond insurance or letters of credit to insure the credit status of the HFDC.

Your Committee also finds that the HFDC is currently authorized, subject to the approval of the Governor, to issue tax-exempt revenue bonds in the aggregate principal amount of \$122,500,000. To date, however, the HFDC has issued \$40,150,000, worth of revenue bonds for three projects with a total of 539 units. This leaves only \$82,350,000 of bond authority available to the HFDC and private developers.

Your Committee further finds that, with the HFDC's increased promotion of the rental housing financing programs, the growing demand for funds may exceed supply. Your Committee finds that this bill is necessary to ensure that the HFDC secures an adequate amount of bond authorization. The additional \$77,500,000 of revenue bond authorization will increase the HFDC's aggregate authorization to \$200,000,000.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3380 and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 2 (Bunda, Tanaka).

SCRep. 2974 Ways and Means on H.B. No. 3424

The purpose of this bill is to conform the insurer insolvency statutes to recent interpretations of the federal bankruptcy laws made by the United States Supreme Court.

Specifically, this bill restructures the priority of distribution of claims against an insolvent insurer's estate to accord with the recent Supreme Court opinion in Department of the Treasury v. Fabe.

Under current state law, the priority of distribution for claims against an estate is set out as follows:

- (1) Administrative expenses;
- (2) Expenses of the guaranty fund;
- (3) Employees' compensation;
- (4) Policy claims;
- (5) Claims of general creditors;
- (6) Claims of the federal, state, and local governments;

- (7) Late claims;
- (8) Surplus or contribution notes; and
- (9) Shareholders' claims.

Under this bill, the priority of distribution is as follows:

- (1) Administrative expenses, including expenses of the guaranty fund;
- (2) Policy claims;
- (3) Claims of the federal government;
- (4) Employees' compensation;
- (5) Claims of general creditors;
- (6) Claims of state and local governments;
- (7) Late claims;
- (8) Surplus or contribution notes; and
- (9) Shareholders' claims.

Thus, changes are made to five categories of claims. The highest priority categories of administrative expenses and of guaranty fund expenses are combined as one. Federal government claims are separated from government claims and made a separate, higher priority category, elevated three levels. Claims for employees' compensation drops one level in priority. Policy claims moves up two levels.

Your Committee notes that this bill is an abbreviated but substantively identical version of S.B. No. 2756, S.D. 1, which was passed out earlier by your Committee.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3424, H.D. 2, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2975 Ways and Means on H.B. No. 3425

The purpose of this bill is to make an emergency appropriation out of the workers' compensation insurance administration special fund to enable the Insurance Commissioner to administer the workers' compensation insurance program.

This bill is recommended by the Governor for immediate passage in accordance with article VII, section 9, of the state constitution.

Your Committee finds that section 21 of Act 234, Session Laws of Hawaii 1995, established the workers' compensation insurance administration special fund for the purpose of paying the costs incurred in administering the workers' compensation insurance program, including, but not limited to, costs related to:

- (1) Public education and information;
- (2) Closed claims studies;
- (3) Other studies and evaluations relating to workers' compensation insurance, including an analysis of the classifications of jobs and the assigned risk pool affecting the rates charged by insurers; and
- (4) Administrative contracts with personnel necessary to carry out the purposes of Act 234.

Your Committee also finds that Act 234, Session Laws of Hawaii 1995, did not include a mechanism for the Legislature to appropriate, and the Insurance Commissioner to expend, the moneys deposited into the workers' compensation insurance administration special fund. Consequently, the Insurance Commissioner has been unable to expend any moneys in the special fund since July 1, 1995.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3425, H.D. 2, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2976 Ways and Means on H.B. No. 3453

The purpose of this bill is to increase the amount that the Department of Hawaiian Home Lands is authorized to borrow or guarantee on loans from \$21,000,000 to \$50,000,000.

Your Committee finds that in the past, financial institutions have been reluctant to make mortgage loans to Hawaiian home lands beneficiaries as the land is not subject to foreclosure. The Department has devised loan programs to guarantee the loans so that mortgages can be made and homes placed on the land. The State is now entering a period in which many Hawaiian home lands housing projects are moving into the development phase, which will provide, within the next two years, hundreds of improved lots ready to be built on. However, without a higher guarantee limit, the Department may be unable to provide guarantees for all those who will need them, and these homestead lessees will be unable to build, perpetuating the frustrations of the past. Your Committee finds that this bill will assist in resolving prior problems and help enable lessees to use their lands.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3453 and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2977 Ways and Means on H.B. No. 3454

The purpose of this bill is to enable the Department of Human Services to meet its fiscal obligation to provide foster board and board-related costs for children needing out-of-home care.

Specifically, this bill appropriates \$880,000 in emergency funding out of the federal funds of the State for the Department to meet its fiscal obligations in fiscal year 1995-1996.

Your Committee finds that a critical funding emergency exists and that the foster care program will run out of funds for fiscal year 1995-1996. Your Committee finds that the State must continue to protect this extremely vulnerable group of children by appropriating the necessary emergency funds.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3454 and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2978 Ways and Means on H.B. No. 3459

The purpose of this bill is to enable the Department of Human Services to be better advised by its advisory committees.

Specifically, this bill dissolves the advisory board of human services.

According to the Department of Human Services, programmatic advisory committees currently exist in the Department that address substantive issues and provide community-based input and recommendations. Your Committee finds that members of the board of human services can better serve the Department by instead becoming members of these committees.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3459 and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2979 Ways and Means on H.B. No. 3461

The purpose of this bill is to ensure that the Department of Human Services can continue to meet its fiscal obligations to provide health services for the medicaid and the Hawaii QUEST programs.

Specifically, this bill appropriates \$96,037,955 in emergency funding out of the federal funds of the State for the Department to meet its fiscal obligations for fiscal year 1995-1996 for health care payments.

Your Committee finds that a critical funding emergency exists and that the Department of Human Services, in anticipation of the new federal block grant for medicaid, needs to increase its federal ceiling in order to meet its fiscal obligation to provide health and health-related services to the State's QUEST and medicaid recipients.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3461 and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2980 Ways and Means on H.B. No. 3481

The purpose of this bill is to appropriate \$9,372.25 from the special fund account of the Martin Luther King, Jr. Commission administered by the Department of Human Resources Development, to be expended by the Civil Rights Commission for activities related to the celebration of the Martin Luther King, Jr. state holiday.

Your Committee finds that Act 329, Session Laws of Hawaii 1991, which established the Martin Luther King, Jr. Commission and a special fund known as the Martin Luther King, Jr. Celebration Fund, included an automatic sunset date of June 30, 1995. Before its sunset date, the fund accumulated \$9,372.25 from private donations. Your Committee further finds that the Attorney General's office has advised the Department of Human Resources Development that this money cannot lapse into the general fund because Act 329 was silent about disposition of the money and because of implied trust obligations. Accordingly, your Committee finds that this bill is necessary to allow the money to be expended for the purpose for which it was donated.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3481, H.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2981 Ways and Means on H.B. No. 3525

The purpose of this bill is to abolish the Hawaii Fisheries Coordinating Council by repealing chapter 188E, Hawaii Revised Statutes.

The Council was established in 1980 in response to the 1979 Hawaii Fisheries Development Plan which called for the coordination of various fisheries interests in fisheries development. The current version of the Hawaii Fisheries Development Plan 1990-1995 does not emphasize fisheries development and identifies the majority of Hawaii's fisheries as being fully or over-exploited. The Hawaii Fisheries Coordinating Council's role is complete. No funds have been appropriated for the fiscal 1995-1997 biennium.

There has been no objection or opposition from the members of the Hawaii Fisheries Coordinating Council. The Department of Land and Natural Resources supports this measure.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3525 and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2982 Ways and Means on H.B. No. 3537

The purpose of this bill is to appropriate \$1,244,780 to the criminal injuries compensation fund.

Your Committee finds that compensation in this amount had already been awarded in the fiscal year ending June 30, 1995 to victims of crime. These moneys are used for out-of-pocket medical expenses, lost earning, funeral and burial expenses, and for pain and suffering. Your Committee finds that the financial assistance provided through the fund often makes a critical difference to victims as they try to recover from their physical, psychological, and emotional injuries.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3537, H.D. 2, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2983 Ways and Means on H.B. No. 3539

The purpose of this bill is to clarify the rights and duties between the criminal injuries compensation commission and persons who have received overpayments of compensation from the commission.

Basically, this bill reaffirms the common law principle of restitution to prevent unjust enrichment. Specifically, this bill requires persons receiving overpayments from the commission to repay overpaid amounts to the criminal injuries compensation fund. At the commission's discretion repayments may be made to the fund or applied as a set off against future payments. Exceptions to repayment apply when the recipient receives the overpayments through no fault of the recipient's own, and equity and good conscience outweigh the commission's right of recovery.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3539 and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2984 Ways and Means on H.B. No. 3545

The purpose of this bill is to repeal the requirement that state Intake Service Centers collect and maintain information and statistical data for the Department of Public Safety.

Your Committee finds that during the transformation of the Department of Corrections to the Department of Public Safety, the statutory functions regarding correctional information and statistics was left with the intake service center division while the actual responsibilities and functions were transferred to general administration.

This bill will clarify the role of the intake service center division and allow the Director to assign this function to the appropriate office.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3545 and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2985 Ways and Means on H.B. No. 3584

The purpose of this bill is to clarify that revenues from all student charges shall be deposited into the University of Hawaii tuition and fees special fund.

Your Committee finds that the special fund was created by Act 161, Session Laws of Hawaii 1995. The Act provides that revenues from regular credit tuition and tuition related course and fee charges shall be deposited into the fund. Ambiguity evidently exists as to whether proceeds from other types of charges to students must be deposited there. This bill clarifies that they do. These other types of charges include change in registration fees, late registration fees, out-of-state application fees, and fees for credit by examination.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3584, H.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2986 Ways and Means on H.B. No. 3603

The purpose of this bill is to clarify the proper disposition of properties acquired by the Office of Hawaiian Affairs (OHA).

This bill requires that properties acquired by OHA be controlled and managed for the purposes of the OHA statute (chapter 10, Hawaii Revised Statutes), and subject to applicable constitutional requirements relating to trust lands.

Your Committee finds that OHA, created and established for the betterment of all Hawaiians with any quantum of Hawaiian blood, has the responsibility to manage its properties in line with its trust obligations. This bill is designed to assure the integrity of the management of these properties by specifically assigning this duty to the Board of Trustees of OHA.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3603, H.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 4 (Bunda, Kanno, Tanaka, Liu).

SCRep. 2987 Ways and Means on H.B. No. 3645

The purpose of this bill is to provide for the collection of criminal fines in the same manner as a judgment in a civil action.

Specifically, this bill amends the state traffic code by enacting a new section that provides that fines may be collected in the same manner as a judgment in a civil action, that costs may be collected in the same manner as a civil judgment, and that the Attorney General may institute proceedings to collect the fine, costs, interest, and attorney's fees as a civil judgment in the court of appropriate jurisdiction. The bill also amends section 706-644, Hawaii Revised Statutes, regarding the consequences of default in paying a fine or restitution, by adding similar language to that penal code section, and by deleting contradictory language regarding the levy of execution of an unpaid civil judgment entered against the criminal defendant in an action on a debt.

Your Committee agrees with the intent of this bill, which will make it possible to convert traffic fines and criminal monetary judgments from criminal to civil matters, where appropriate, which will greatly assist the State in increasing the collection rate for outstanding fines and other costs in relation to the traffic violation. The continuing state budget shortfall, combined with the large number of outstanding traffic judgments, makes it imperative that the State find new ways to collect those judgments in an expeditious manner.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3645, H.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2988 Ways and Means on H.B. No. 3648

The purpose of this bill is to increase the drivers education fund underwriters fee from \$1.50 a year to \$2 a year, and to make the fee due and payable on a quarterly rather than an annual basis.

Your Committee finds that increasing the drivers education fund underwriters fee from \$1.50 a year to \$2 a year will provide more funds for the operation of the drivers education program administered by the Judiciary; and the drivers education program administered by the Department of Education, including seat belt use, bicycle safety, pedestrian safety, school bus safety, Project Prom, and Project Graduation. Your Committee also finds that making the fee due and payable on a quarterly basis rather than an annual basis will synchronize the mechanism for generating the funds for driver education programs with the quarterly allotment system, which governs the expenditure of these funds.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3648, H.D. 2, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2989 Ways and Means on H.B. No. 3724

The purpose of this bill is to allow the Kaho'olawe Island Reserve Commission to hire its own attorneys (separate from the Attorney General), for its legal services by exempting the Commission from the general prohibition against state agencies retaining their own attorneys.

Your Committee finds that the unique status and function of the Commission necessitates a separate legal advisor, not only due to the complex legal issues arising out of the purposes of the Commission and its relationship with the federal government and several state agencies, but because of possible conflicts of interest which could arise between the Commission and a state-appointed Deputy Attorney General. The counsel for the Commission is expected to be paid for from federal funds received for the rehabilitation and environmental restoration of the island; and your Committee therefore finds that funding for the position is not a problem.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3724 and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 2 (Bunda, Tanaka).

SCRep. 2990 Ways and Means on H.B. No. 3769

The purpose of this bill is to authorize the Department of Land and Natural Resources to enter into long-term leases with certain families who were displaced as a result of volcanic eruption.

This bill allows the Department of Land and Natural Resources to enter into long-term leases with ten persons who met the eligibility requirements stated in Act 314, Session Laws of Hawaii 1991, but were unable to finalize the negotiations by the deadline of December 31, 1995. Act 314, Session Laws of Hawaii 1991, as amended by Act 172, Session Laws of Hawaii 1993, and Act 81, Session Laws of Hawaii 1994, assisted those living in the Kalapana area who were dispossessed or displaced as a result of volcanic eruptions.

Your Committee finds the ten persons affected by this bill were screened and found to be eligible in October and November of 1995 and should be allowed to complete the negotiations for the long-term leases.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3769, H.D. 3, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 2 (Bunda, Tanaka).

SCRep. 2991 Ways and Means on H.B. No. 3916

The purpose of this bill is to help Hamakua and Hilo coast residents by extending the expiration date from June 30, 1996, to June 30, 1998, for the State to negotiate and enter into lease agreements for state agricultural lands.

Your Committee finds that the residents of the Hamakua and Hilo coast who were adversely affected by the closure of area sugar plantations could be helped by allowing qualified residents to lease former sugar lands to grow other kinds of agricultural crops. Act 211, Session Laws of Hawaii 1994, sought to do just that. However, Act 211 is repealed by

operation of law on June 30, 1996. By extending this date to June 30, 1998, the Departments of Land and Natural Resources and Agriculture would have more time to ensure that those persons qualified for agricultural month-to-month permits will have their applications processed and not lose their opportunity to contribute to the economy of an already depressed area.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3916, H.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 2 (Bunda, Tanaka).

SCRep. 2992 Ways and Means H.B. No. 3976

The purpose of this bill is to authorize the issuance of special purpose revenue bonds to assist in the development of solar electric photovoltaic systems in Hawaii county, Maui county, and Kauai county.

Your Committee finds that the special purpose revenue bonds authorized in this bill will help PowerLight Corporation, or a partnership in which PowerLight Corporation is a general partner, to establish photovoltaic power systems that will further diversify the means through which electrical power is generated in the State. The projects envisioned in this bill will result in significant direct and indirect benefits to the State's economy and therefore meet the criteria established for special purpose revenue bond assistance under the law.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3976, H.D. 1, and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 1 (Bunda).

SCRep. 2993 Transportation and Government Affairs on H.C.R. No. 20

The purpose of this Concurrent Resolution is to urge the United States Congress to support legislation which supports the Hawaii National Guard's Drug Demand Reduction Program (DDR).

Your Committee finds that DDR's education and reduction programs are invaluable assets in the effort to curb drug abuse. DDR has played an integral role in efforts to educate parents and children through its participation in the "No Hope In Dope Program", where it has provided positive volunteer role models to speak with school children, air transport to the neighbor islands, and educational material. DDR has also coordinated and made possible static educational displays by the Hawaii Air and Army National Guard at drug free events, and is a member of the Youth Gang Response System-Oahu team which is a partnership of private and public agencies working to address the problems of drugs and youth gangs. DDR's continued assistance is crucial to the community's efforts to reduce drug abuse.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 20 and recommends its adoption.

Signed by the Chairman on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 1 (Tanaka).

SCRep. 2994 Transportation and Government Affairs on H.C.R. No. 55

The purpose of this Concurrent Resolution is to authorize the establishment of friendly State-Province relations between the State of Hawaii and the Province of Cebu of the Republic of the Philippines.

Your Committee is cognizant of the historical relationship between the United States, Hawaii in particular, and the Philippines. The close cultural and commercial ties have been previously recognized by the establishment of sister-city relations between Honolulu and the City of Cebu in the Province of Cebu, and between Honolulu and the City of Laoag in Ilocos Norte. A similar State-Province relation would further strengthen cultural and commercial ties, help the State improve its economic relations in the Pacific and Asia, and generally be of benefit to all.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 55, H.D. 1, and recommends its adoption.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, none.

SCRep. 2995 Transportation and Government Affairs on H.C.R. No. 198

The purpose of this Concurrent Resolution is to request the Department of Transportation (DOT) to use volunteer citizen groups to replant designated test sites along roadways with different varieties of low growing, low maintenance vegetation in order to:

- (1) Learn which species are best suited to roadside management;

- (2) Acquire an understanding of the true costs and benefits of an integrated vegetation management program; and
- (3) Reduce expenditures for herbicides and roadside management operations.

DOT is further requested to study the feasibility of an integrated vegetation management program in Hawaii and the use of native plant species.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 198 and recommends its adoption.

Signed by the Chairman on behalf of the Committee.
Ayes, 5. Noes, none. Excused, none.

SCRep. 2996 Transportation and Government Affairs on S.R. No. 104

The purpose of this Resolution is to extend the Senate's heartfelt aloha and wishes for peace to the children and people of Bosnia, and to send certified copies of the Resolution along with teddy bears to the children and people of Bosnia.

Your Committee has amended this Resolution by deleting its provisions and replacing them with new provisions to request the convening of a Greenways Steering Committee. Greenways are important linear open spaces along natural geographic features which link together parks and other significant locations to emphasize the development of alternatives to motor vehicle transportation. As amended, the Resolution:

- (1) Requests the Department of Transportation and the Department of Land and Natural Resources to convene a Greenways Steering Committee (Committee);
- (2) Specifies the members of the Committee;
- (3) Sets forth the objectives of the Committee; and
- (4) Requires the Committee to report to the Legislature.

As affirmed by the record of votes of the members of your Committee on Transportation and Government Affairs that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 104, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 104, S.D. 1.

Signed by the Chairman on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Taniguchi, Anderson).

SCRep. 2997 Ways and Means on H.B. No. 547

The purpose of this bill is to allow special license plates to be issued to survivors of Pearl Harbor. Presently veterans and recipients of the purple heart are entitled to receive special license plates in recognition of their military service. The bill proposes to give similar recognition to those persons providing military service to the United States at the time of the attack on Pearl Harbor.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 547 and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 4 (Fukunaga, Kanno, Taniguchi, Liu).

SCRep. 2998 Ways and Means on H.B. No. 548

The purpose of this bill is to authorize the issuance of special license plates honoring persons who, while providing military service to the United States, were confined as prisoners of war. Your Committee finds that it is important to recognize those persons who served in defense of our country. All other states allow such licenses. The bill was favorably supported throughout the legislative process.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 548 and recommends that it pass Third Reading.

Signed by the Chairman on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 4 (Fukunaga, Kanno, Taniguchi, Liu).